

The British Court  
and the 1707  
Union of England  
and Scotland.

## Abstract

This is a study in political history which addresses the origins of the Union of England and Scotland in 1707. Unlike most recent scholarship, it does not take a Scottish perspective. It does not however, provide a corresponding study of 'English' motives and attitudes. It argues that a bilateral Scotland-England framework is inappropriate and unhelpful for the purposes of understanding the origins of the Union. This is because such a framework fails to accord sufficient agency and autonomy to the monarchy and its closest advisers, or 'Court group', after the 'Glorious Revolution' and sufficient political coherence to the 'Union of the Crowns' that preceded the Union. Such 'Court groups' should not, therefore, be conflated with 'England' and their motives can be distinguished from 'English' motives.

It concludes that rather than being the by-product of a politically expedient English parliamentary reaction to political or economic pressure from Scotland, the Union was the outcome of deliberate policy pursued by a Court group comprising Anne and her chief advisers, the Triumvirate of Godolphin, Marlborough and Harley. The origins of this policy lay in William III & II's recognition that active participation in European great power geopolitics and war, precipitated by the Revolution, demanded greater alignment within the Union of the Crowns. This need was brought home by the profound geopolitical and domestic impact of the Scottish attempt to establish a colony in Darien. Consequently, union initiatives were launched in 1700 and 1702. Just as the geopolitical strategy of resistance to Louis XIV survived William's death, so this union policy continued into Anne's reign and was not abandoned after the termination of union negotiations in 1703.

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## Abbreviations and Conventions

### Dates.

All dates are given in Old Style unless indicated otherwise by 'NS'. The year is taken to end on 31 December.

### Quotations and Citations.

Spelling and punctuation in the relevant source, whether printed or manuscript, has been followed without alteration or modernization. Square brackets in citations indicate uncertain attributions.

### Abbreviations.

The following abbreviations have been used:

<b>APS</b>	<i>Acts of the Parliament of Scotland</i> , ed. T. Thomas & C. Innes, volumes ix-xi (Edinburgh, 1814-72).
<b>Boyer, Annals</b>	A. Boyer, <i>The History of the Reign of Queen Anne digested into Annals</i> (London, 1703-1707).
<b>Boyer, History</b>	A. Boyer, <i>History of the Life and Reign of Queen Anne</i> (London, 1722).
<b>BIHR</b>	<i>Bulletin of the Institute of Historical Research</i> .
<b>BL, Add Ms</b>	British Library, Additional Manuscripts.
<b>Burnet, History</b>	<i>Bishop Burnet's History of his Own Times</i> , volumes iv-v (London, 1724-34).
<b>CJ</b>	<i>Journal of the House of Commons</i> , volumes xii-xv (London, 1803).
<b>Clerk, History</b>	<i>History of the Union by Sir John Clerk</i> , ed. D. Duncan (Edinburgh, 1993).
<b>Cowper</b>	<i>The Private Diary of William 1<sup>st</sup> Earl Cowper, Lord Chancellor of England, 1705-14</i> ed. E.C. Hawtrey (Eton, 1833).
<b>CSP</b>	<i>State Papers Addressed to William Carstares</i> , ed. J. Mc Cormick (Edinburgh, 1774).
<b>CSPC</b>	<i>Calendar of State Papers, Colonial, America and West Indies</i> , volumes xv -xvi, ed. W Fortescue, and volumes xvii-xxiii, ed. C. Headlam (London, 1908-1916).
<b>CSPD</b>	<i>Calendar of State Papers, Domestic, Series of the reign of Anne</i> , ed. R.P. Mahaffy, volumes i-ii (London, 1916-1924).
<b>Crossrigg</b>	Sir David Hume of Crossrigg, <i>A Diary of the Proceedings in the Parliament and Privy Council of Scotland May 21 1700 to March 7 1707</i> (Edinburgh, 1828).
<b>Curtis Brown, Letters</b>	<i>The Letters and Diplomatic Instructions of Queen Anne</i> , ed. B. Curtis Brown (London, 1938).
<b>Defoe, History</b>	D. Defoe and G. Chalmers, <i>The history of the union between England and Scotland with a collection of original papers relating thereto</i> (London, 1786).
<b>DNB</b>	<i>Oxford Dictionary of National Biography</i> (On-line edition) (Oxford, 2004).
<b>EHR</b>	<i>The English Historical Review</i> .
<b>Jerviswood</b>	<i>The Correspondence of George Baillie of Jerviswood, 1702-1708</i> , ed. Earl of Minto (Edinburgh, 1842).
<b>HMC</b>	Historical Manuscripts Commission.
<b>ISL</b>	<i>Intimate Society Letters of the Eighteenth Century</i> , volume i, ed. Duke of Argyll (London, 1910).
<b>LJ</b>	<i>Journal of the House of Lords</i> , volumes xv- xviii (London, 1767-1830).

<b>Lockhart</b>	<i>Memoires Concerning the Affairs of Scotland, from Queen Anne's Accession to the Union of the two Kingdoms of Scotland and England</i> (London,1714).
<b>LRS</b>	<i>Letters relating to Scotland in the reign of Queen Anne by James Ogilvy, First Earl of Seafield and others</i> , ed. P. Hume Brown (Edinburgh, 1915).
<b>Luttrell</b>	Narcissus Luttrell, <i>A Brief Historical Relation of State Affairs from September 1678 to April, 1714</i> , volumes iv-v (Oxford, 1857).
<b>Marchmont</b>	G.H. Rose, (ed.) <i>A selection from the Papers of the Earls of Marchmont</i> (London, 1831).
<b>MGC</b>	<i>The Marlborough-Godolphin Correspondence</i> , volumes i-ii, ed. H.L. Snyder (Oxford, 1975).
<b>NAS</b>	The National Archives of Scotland.
<b>Nicolson</b>	<i>The London Diaries of William Nicolson, Bishop of Carlisle 1702-1718</i> , ed. C. Jones and G.S. Holmes (London, 1985).
<b>NRS</b>	National Records of Scotland.
<b>NUL</b>	Nottingham University Library.
<b>PRO</b>	Public Records Office.
<b>[Ridpath], Proceedings</b>	[George Ridpath], <i>An Account of the Proceedings of the Parliament of Scotland which met at Edinburgh, May 6 1703</i> (Edinburgh,1704).
<b>SHR</b>	<i>The Scottish Historical Review</i> .
<b>TNA</b>	The National Archives, Kew.
<b>TRHS</b>	<i>Transactions of the Royal Historical Society</i> .
<b>Vernon</b>	<i>Letters Illustrative of the reign of William III from 1696 to 1708. Addressed to the Duke of Shrewsbury by James Vernon</i> , volumes ii-iii, ed. G.P.R. James (London, 1841).

### HMC Reports

References appear in the form '**HMC Laing, ii**,' for example, for the *HMC Report on the Laing Manuscripts preserved in the University of Edinburgh*, volume ii, followed by the date (if available) and the page number.

References to '**HMC Marchmont**' and to '**HMC Seafield**' are to the relevant sections of *HMC 14<sup>th</sup> Report, appendix, Part III, the Manuscripts of the Duke of Roxburgh; Sir H.H. Campbell of Marchmont, Earl of Strathmore; and the Countess Dowager of Seafield* (London, 1894).

References to '**HMC Johnstone**' are to *HMC 15<sup>th</sup> Report, appendix, Part IX, the Manuscripts of J.J. Hope of Annandale* (London, 1897).

### Religious denominations

References to 'Presbyterians' are to a Scottish political grouping. References to 'presbyterians' and 'episcopalians' are to Scottish Protestant denominations.

## Who's Who

The participants in the events covered by this study were known by different titles at different times and during their careers held different offices. References in the text to the principal individuals, their successive titles and offices held, and their dates of birth and death, are summarized below in order to facilitate their identification. The categorization of certain individuals is in some cases is debatable, for example where their affiliations changed over time.

Details are based on *DNB* (<http://www.oxforddnb.com>); *History of Parliament* (<http://www.historyofparliamentonline.org>); and R. Paley (ed.) *The History of Parliament: The House of Lords 1660-1715* (Cambridge, 2016).

## Royalty

<b>Anne, or the Queen</b>	Anne, Princess of Denmark (1683), Queen of England, Ireland and Scotland (1702). Queen of Great Britain and Ireland (1707). (1665-1714).
<b>Gloucester</b>	William, Duke of Gloucester, Anne's son. (1689-1700).
<b>James</b>	James VII & II, King of England, Scotland and Ireland 1685-1689. Deposed in the 'Glorious Revolution'. Brother of Charles II; father of Queen Mary and Anne; Uncle to William. (1633-1701).
<b>Mary, or Queen Mary</b>	Mary II, William's wife and Anne's sister. Queen of England, Scotland and Ireland 1689-1694. (1662-1694).
<b>Prince George</b>	George, Prince of Denmark, Anne's husband. Lord High Admiral 1702-1708. (1653-1708).
<b>The Prince of Wales, or the Pretender</b>	James Edward Stuart, James's son, half-brother to Queen Mary and Anne. (1688-1766).
<b>Sophia, or the Electress Sophia</b>	Sophia, Electress dowager of Hanover, granddaughter of James VI & I. Anne's successor under the 1701 English Act of Settlement. (1630-1714).
<b>William or William III of Orange</b>	William III, Prince of Orange. <i>Stadhouder</i> of the Dutch Republic 1672-1702. King William III & II of England, Ireland and Scotland 1689-1702. Nephew of James and Charles II. (1650-1702).
<b>Favourites and Courtiers</b>	
<b>Churchill, or Marlborough</b>	John Churchill, Earl, then Duke of Marlborough. Anne's Captain General and diplomatic plenipotentiary 1702- 1711. Union Commissioner 1702-1703 and 1706. Married to Sarah. With his friend Godolphin, a ' <b>Duumvir</b> '. (1650-1722).
<b>Danby or Osborne</b>	Thomas Osborne, Earl of Danby, Marquis of Carmarthen, Duke of Leeds. Charles II's parliamentary 'manager' and English Lord High Treasurer 1673-1679. William's English Lord President 1689-1699. One of the 'Immortal Seven' who invited William to invade Britain in 1688. (1632-1712).
<b>Earl of Sunderland</b>	Robert Spencer, 2nd Earl of Sunderland. James's English Lord President 1685-1688. William's parliamentary 'manager' and (briefly, in 1697) Lord Chamberlain. (1641-1702).
<b>Godolphin</b>	Sidney Godolphin, Baron, then Earl of Godolphin. Lord High Treasurer of England, then Great Britain, 1702-1710. Union Commissioner 1702-1703 and 1706. With his friend Marlborough, a ' <b>Duumvir</b> '. (1645-1712).
<b>Harley</b>	Robert Harley. 'Country' leader during William's reign. Speaker of the English House of Commons 1701, 1702, 1702-1705; English, then British,

	Secretary of State 1704-1708. Lord High Treasurer of Great Britain 1710-1714. Union Commissioner 1702-1703 and 1706. With Godolphin and Marlborough, one of the <b>'Triumvirate'</b> . (1661-1724).
<b>Portland</b>	Hans Willem Bentinck, Earl of Portland. William's favourite and Groom of the Stole 1689-1700. (1649-1709).
<b>Lady Marlborough, or Sarah</b>	Sarah Churchill, Countess, then Duchess of Marlborough. Anne's favourite. Groom of the Stole, Keeper of the Privy Purse and First Lady of the Bedchamber 1702-1711. (1660-1744).
<b>Seafield</b>	James Ogilvy, Earl of Seafield. Scottish Secretary of State 1696-1702 and 1704-1705; Lord Chancellor 1702-1704 and 1705-1708. Union commissioner 1702-1703 and 1706. (1664-1730).
<b>High Tories</b>	
<b>Jersey</b>	Edward Villiers, Earl of Jersey. Lord Chamberlain 1700-1704. Union commissioner 1702-1703. (1656-1711).
<b>Normanby, or Buckingham</b>	John Sheffield, Marquess of Normanby (1694), Duke of Buckingham (1703). English Lord Privy Seal 1702-1705. Union commissioner 1702-1703. (1647-1721).
<b>Nottingham</b>	Daniel Finch, Earl of Nottingham. English Secretary of State 1689-1693 and 1702-1704. Union Commissioner 1702-1703. (1647-1730).
<b>Rochester</b>	Laurence Hyde, Earl of Rochester. Anne's maternal uncle. James's English Lord High Treasurer (1685-1686). Lord Lieutenant of Ireland 1701-1703. Union commissioner 1702-1703. (1642-1711).
<b>Seymour</b>	Sir Edward Seymour, Comptroller of the Household 1702-1704. (1633-1708).
<b>Other Tories</b>	
<b>Burlington</b>	Charles Boyle, Earl of Burlington. Lord High Treasurer of Ireland 1695-1704. Union commissioner 1702-1703. (d. 1704).
<b>Harcourt</b>	Simon Harcourt, Solicitor General 1702-1707, union commissioner 1706. (1661-1727).
<b>Haversham</b>	John Thompson, Baron Haversham. Former Whig. (1648- 1710).
<b>Hedges</b>	Sir Charles Hedges. English Secretary of State November 1700-December 1701 and May 1701-December 1706. Union Commissioner 1702-1703 and 1706. (1650-1714).
<b>Musgrave</b>	Sir Christopher Musgrave. Teller of the Exchequer 1702-1704. Prominent 'Country' Tory. Union Commissioner 1702-1703. (c.1631-1704).
<b>Pembroke</b>	Thomas Herbert, Earl of Pembroke. English Lord President of the Council 1699-1702 and 1702-1707. British Lord President 1707- 1708 and First Lord of the Admiralty 1708-1709. Union Commissioner 1702-1703 and 1706. (c.1656-1733).
<b>Wright</b>	Sir Nathan Wright. English Lord Keeper under William and Anne 1700-1705. Union Commissioner 1702-1703. (1654-1721).
<b>Whig Junto</b>	
<b>Montagu or Halifax</b>	Charles Montagu, Baron Halifax (1700). William's English First Lord of the Treasury 1697-1699. Auditor of the Exchequer from 1699. Union Commissioner 1706. (1661-1715).
<b>Russell or Orford</b>	Edward Russell, Earl of Orford. First Lord of the Admiralty under William 1694-1699, then Anne 1709-1710. Union Commissioner 1706. (1653-1727).
<b>Somers</b>	John Somers, Baron Somers. William's English Lord Keeper (1693-1697) then Lord Chancellor (1697-1700). British Lord President 1708-1710. Union Commissioner 1706. (1651-1716).

<b>Sunderland</b>	Charles Spencer, 3 <sup>rd</sup> Earl of Sunderland (1702). Ambassador to Vienna 1705. Replaced Hedges as English Secretary of State, December 1706. British Secretary of State March 1707-1710. Union Commissioner 1706. Marlborough's son-in-law. (1674-1722).
<b>Wharton</b>	Thomas Wharton, Baron Wharton. William's Comptroller of the Household 1689-1702. Lord Lieutenant of Ireland 1708-1710. Union Commissioner 1706. (1648-1715).
<b>Whig grandees</b>	
<b>Devonshire</b>	William Cavendish, Duke of Devonshire, one of the 'Immortal Seven'. Lord Steward for William and Anne, 1689-1710. Union commissioner 1702-1703 and 1706. (1640-1707).
<b>Newcastle</b>	John Holles, Duke of Newcastle. English, then British Lord Privy Seal (replacing Buckingham), 1705 -1711. Union Commissioner 1702-1703 and 1706. (1662-1711).
<b>Somerset</b>	Charles Seymour, Duke of Somerset. William's English Lord President January-July 1702. Anne's Master of the Horse 1702-1712. Union commissioner 1702-1703 and 1706. (1662-1748).
<b>Other Whigs</b>	
<b>Carlisle</b>	Charles Howard, Earl of Carlisle. English First Lord of the Treasury (replacing Godolphin) 1701-1702, English Earl Marshal 1702-1706. Union Commissioner 1702-1703 and 1706. (1669-1738).
<b>Cowper</b>	William Cowper, Baron Cowper (1706). English Lord Keeper (replacing Wright) 1705-1706 and English, then British, Lord Chancellor 1706-1710. Union Commissioner 1706. (1665-1723).
<b>Defoe</b>	Daniel Defoe. Polemicist, journalist, historian of the Union and spy. (c.1660-1731).
<b>Kent</b>	Henry Grey, Earl of Kent. Lord Chamberlain (replacing Jersey), 1704-1710. (1671-1740).
<b>Scarborough</b>	Richard Lumley, Earl of Scarborough, one of the 'Immortal Seven'. Union commissioner 1702-1703. (1650-1721).
<b>Shrewsbury</b>	Charles Talbot, Duke of Shrewsbury, one of the 'Immortal Seven'. William's English Secretary of State 1689-1690 and 1694-1698. William's Lord Chamberlain 1699-1700. Anne's Lord Chamberlain, 1710-1715. (1660-1718).
<b>Smith</b>	John Smith, House of Commons Speaker 1705-1708. English Chancellor of the Exchequer 1699-1701. British Chancellor of the Exchequer 1708-1710. Union Commissioner 1706. (c.1655-1723).
<b>Vernon</b>	James Vernon, an English Secretary of State 1697-1700 and November 1701-May 1702. (1646-1727).
<b>Queensberry's following</b>	
<b>Glasgow</b>	David Boyle, Earl of Glasgow (1703). Lord Treasurer Depute 1705-1707. (c.1666-1733).
<b>Carstares</b>	William Carstares, Presbyterian minister. Royal Chaplain under William and Anne, <i>confidant</i> of William and Portland. Moderator of the General Assembly of the Church of Scotland 1705. (1649-1715).
<b>Clerk</b>	Sir John Clerk of Penicuik (the Younger). Scottish and British MP. Union commissioner 1706. Union polemicist and historian. (1649-1755).
<b>David Dalrymple</b>	Sir David Dalrymple, Scottish Solicitor General 1701-1709. Union commissioner 1702-1703 and 1706. (c.1665-1721).



<b>Hew Dalrymple or Lord President</b>	Sir Hew Dalrymple, Lord President of the Court of Session. Union commissioner 1702-1703 and 1706. (1652-1737).
<b>Queensberry</b>	James Douglas, Duke of Queensberry. High Commissioner to the Scottish parliament May 1700, October 1700-February 1701, 1702, 1703 and 1706-1707. Scottish Secretary of State 1702-1704. Scottish Lord Privy Seal 1705-1709. Union commissioner 1702-1703 and 1706. (1662-1711).
<b>Philiphauth</b>	James Murray of Philiphauth. Lord Clerk Register 1702-1704 and 1705-1708. Union commissioner 1706. (1655-1708).
<b>Stair</b>	John Dalrymple, Earl of Stair. Implicated in the Glencoe massacre. Union commissioner 1702-1703 and 1706. (1648-1707).
<b>'Presbyterians'</b>	
<b>Annandale</b>	William Johnstone, Marquis of Annandale. Scottish Lord President 1702-1704, and 1705-1706. Scottish Secretary of State 1705. Union commissioner 1702-1703. (1664-1721).
<b>Argyll</b>	John Campbell, 2 <sup>nd</sup> Duke of Argyll (1703). British general, High Commissioner to the Scottish parliament 1705. (1680-1743).
<b>Duke of Argyll</b>	Archibald Campbell, 1 <sup>st</sup> Duke of Argyll. Union commissioner 1702-1703. (1658-1703).
<b>Lord Advocate</b>	James Stewart of Goodtrees, Scottish Lord Advocate 1692-1707. (1635-1713).
<b>Marchmont</b>	Patrick Hume, Earl of Marchmont. Scottish Lord Chancellor 1696-1702. Connected with Tweeddale's associates. (1641-1724).
<b>Ormiston</b>	Adam Cockburn of Ormiston. Lord Treasurer Depute, 1699 -1702. Lord Justice Clerk 1705-1710. Union Commissioner 1702-1703 and 1706. (1656-1735).
<b>Tweeddale's associates</b>	
<b>Baillie</b>	George Baillie of Jerviswood. Scottish Lord Treasurer Depute 1704-1705. 'Country' politician 1703-1704. 'New Party', or <i>Squadronne Volante</i> , from 1704. Married to Lady Grisel, Marchmont's daughter. (1664-1738).
<b>Johnstone</b>	James 'Secretary' Johnstone. William's Scottish Secretary of State, 1692-1696. Lord Clerk Register 1704-1705. 'New Party', or <i>Squadronne Volante</i> , from 1704. (1655-1737).
<b>Roths</b>	John Leslie, Earl of Roths. Scottish Lord Privy Seal 1704-1705. 'Country' politician 1703-1704. 'New Party', or <i>Squadronne Volante</i> , from 1704. (1679-1722).
<b>Roxburgh</b>	John Kerr, Earl of Roxburgh. Scottish Secretary of State 1704-1705. Prominent 'Country' politician 1703-1704. 'New Party', or <i>Squadronne Volante</i> , from 1704. (1680-1741).
<b>Tweeddale</b>	John Hay, 2 <sup>nd</sup> Marquis of Tweeddale. Scottish Lord Chancellor 1704-1705. High Commissioner to the Scottish Parliament 1704. Leading 'Country' politician 1698-1704. 'New Party', or <i>Squadronne Volante</i> , from 1704. (1645-1713).
<b>Other Union proponents</b>	
<b>Pitmidden</b>	William Seton of Pitmidden. Scottish and British MP, 'Country' and union polemicist. Union commissioner 1706. (1673-1744).
<b>Tarbat, or Cromartie</b>	George Mackenzie, Viscount Tarbat, Earl of Cromartie (1703). Scottish Secretary of State 1702-1704, Justice General 1704-1710. Union Commissioner 1702-1703. Courtier and union polemicist. (1630-1714).

<b>Hamilton's associates</b>	
<b>Belhaven</b>	John Hamilton, Lord Belhaven. Associated with 'New Party' 1704-1705. Re-joined Hamilton 1705-1707. Opposed Union. (1656-1708).
<b>Duchess Anne</b>	Anne, Duchess of Hamilton <i>suo jure</i> , Hamilton's mother. Opposed Union. (1632-1716).
<b>Hamilton</b>	James Hamilton, 4 <sup>th</sup> Duke of Hamilton, Scotland's premier peer. 'Country' leader 1700-1707. Leading public opponent of Union. (1658-1712).
<b>Basil Hamilton</b>	Lord Basil Hamilton, Hamilton's brother. Suspected Jacobite and Africa Company Director. (1671-1701).
<b>Orkney</b>	George Hamilton, Earl of Orkney, Hamilton's brother. British general and Union supporter. (1666-1737).
<b>Selkirk</b>	Charles Hamilton, Earl of Selkirk, Hamilton's brother. Lord Clerk Register, 1696-1702. Associated with 'New Party' 1704-1705. Re-joined Hamilton 1705-1707. Opposed Union. (1664-1739).
<b>Other Union opponents</b>	
<b>Fletcher</b>	Andrew Fletcher of Saltoun, 'the Patriot'. Scottish MP 1703-1707. (1655-1716).
<b>Hodges</b>	James Hodges, London-based Scottish 'Country' polemicist.
<b>Lockhart</b>	George Lockhart of Carnwath, Scottish and British MP. Union commissioner 1706. Jacobite and Union historian. (1673-1731).
<b>Ridpath</b>	George Ridpath, London-based Scottish Presbyterian, Whig and 'Country' polemicist and journalist. (d. 1726).
<b>Tullibardine, or Atholl</b>	John Murray, Earl of Tullibardine, Marquis, then Duke of Atholl (1703). Scottish Lord Privy Seal 1702-1704. (1660-1724).
<b>Jacobite commanders</b>	
<b>Dundee</b>	John Graham of Claverhouse, Viscount Dundee. Royalist general. Persecutor of Scottish presbyterians in the 'Killing Times'. (1648-1691).
<b>Tyrconnell</b>	Richard Talbot, Earl of Tyrconnell. James's Irish army commander and Lord Deputy of Ireland. (c.1630-1691).

## Chronology

Although this study focuses on Anne's reign up to the realization of the Union in May 1707, it covers a period of 50 years beginning in 1660 and is not organized chronologically. The timeline below is therefore offered to provide a narrative framework for the events described in the text. It is necessarily highly selective and does not purport to be a comprehensive history of the period. In any factual conflict with the text, the text should be followed. Key events considered relevant to the origins of the Union are emboldened.

<b>1660</b>	
May	<b>English Convention declares Charles II king, and becomes a parliament.</b> Clarendon appointed Lord Chancellor.
August	English Act of General Pardon, Indemnity and Oblivion.
September	<b>English Navigation Act.</b>
<b>1661</b>	
January-May	New parliaments meet in each kingdom.
September	<b>Scottish Act Recissory.</b> Scottish bishops reinstated.
December	English Corporation Act: Dissenters excluded from public office.
<b>1662</b>	
May	English Uniformity Act: failure of comprehension.
April	Irish Act of Settlement.
September	Scottish parliament passes an anti-covenanting Test.
<b>1663</b>	Scottish parliament re-establishes the 'Lords of the Articles'. English Staple Act.
<b>1664</b>	1641 English Triennial Act repealed. English Conventicles Act.
<b>1665</b>	English Five Mile Act. Second Dutch War begins. Irish Act of Explanation.
<b>1666</b>	<b>Scottish presbyterian Pentland Rising crushed at Rullion Green.</b> Irish Act of Uniformity.
<b>1667</b>	Peace of Breda ends the Second Dutch War. Charles dismisses Clarendon and the Commons attempt to impeach him. First ever parliamentary accounts commission established to examine war expenditure. <b>Anglo-Scottish commercial union negotiations commence.</b>
<b>1668</b>	<b>Commercial union negotiations collapse.</b>
<b>1669</b>	<b>James converts to Roman Catholicism.</b> Charles appoints Lauderdale High Commissioner to the Scottish parliament. <b>Scottish Act of Supremacy.</b> <b>Charles announces Anglo-Scottish incorporating union initiative.</b>
<b>1670</b>	Secret Treaty of Dover concluded with France. <b>Anglo-Scottish union negotiations collapse. Treaty of Madrid with Spain.</b>
<b>1671</b>	English parliament approves the Auxiliary Excise.
<b>1672</b>	<b>Louis XIV invades the Dutch Republic, triggering the Third Dutch War.</b> Declarations of Indulgence in England and Scotland suspend the penal laws against Dissenters and Roman Catholics. <b>William III of Orange appointed Dutch Stadhouder.</b>
<b>1673</b>	
March	Charles withdraws the Declaration of Indulgence and assents to the First English Test Act excluding non-Anglicans from civil and military office.

June	Charles appoints Osborne English Lord Treasurer.
October- November	Strong 'Country' anti-war and anti-Catholic sentiment in the English parliament. Commons address Charles over James's marriage to the Roman Catholic Mary of Modena and refuse to vote further war taxation. Trade Act tightens the English mercantile system. Attacks on Lauderdale in the Scottish parliament.
<b>1674</b>	Treaty of Westminster ends British participation in the Third Dutch war.
<b>1675</b>	<b>Danby commences strategy of building a 'Court' interest in the Commons.</b>
<b>1677</b>	Danby secures renewal of the Auxiliary Excise. <b>William III of Orange marries Mary.</b>
<b>1678</b>	
January-July	Charles ratifies the Anglo-Dutch alliance. France and the Dutch Republic make peace.
August- December	'Popish Plot' provokes anti-Catholic hysteria. Second English Test Act extends the exclusion of non-Anglicans to parliament. Danby is impeached after his reluctant role in secret negotiations for a French subsidy is exposed.
<b>1679</b>	
January-May	Charles dissolves the English parliament. A new parliament with a large 'Country' majority is elected. 'Exclusion Crisis' begins. Charles concedes a <i>Habeas Corpus Act</i> , but blocks a Bill excluding James from the succession by prorogation.
May- December	<b>Covenanter rising following the assassination of the Scottish Archbishop, Sharp, is crushed at Bothwell Brig.</b> Charles dismisses Lauderdale and sends James to Scotland as High Commissioner. New English elections result in an Exclusionist victory.
<b>1680</b>	
June	Cameronians' Sanquhar Declaration.
October- December	New English parliament considers 'limitations' on a Roman Catholic successor. Lords throw out the Second Exclusion Bill.
<b>1681</b>	
January	English parliament dissolved.
March	New parliament meets briefly in Oxford before it, too, is dissolved. Charles secures a new French subsidy.
July-August	<b>Scottish Act of Succession enjoins strict hereditary succession. Scottish Test Act affirms royal supremacy in church and state.</b> <b>'Stuart Reaction' begins:</b> English 'Whig' JPs purged. 'Exclusion Crisis' ends.
<b>1682</b>	Remodelling of English borough charters begins. James returns from Scotland.
<b>1683</b>	Whig Rye House Plot and plans for a Scottish insurrection are foiled, triggering the <b>proscription of Charles's opponents in England and Scotland.</b> Anne marries Prince George of Denmark.
<b>1685</b>	
<b>February- May</b>	Accession of James on Charles's death. New English and Scottish parliaments vote him generous revenues for life. Rochester becomes English Lord Treasurer.
<b>May-July</b>	Monmouth and Argyll rebellions in England and Scotland are crushed.
<b>November- December</b>	Commons protest over James's breach of the Test Acts by appointing Roman Catholic army officers. Melfort (Scottish Secretary of State) and his brother Perth (Scottish Chancellor) convert to Roman Catholicism.
<b>1686</b>	
January	Tyrconnel appointed to command the Irish army: purge of Protestant officers begins.

April-June	Scottish parliament refuses to pass a toleration Act.
December	James dismisses Rochester following his protest over catholicizing policies
<b>1687</b>	
February	James issues first Scottish Declaration of Indulgence. Tyrconnel becomes Lord Deputy of Ireland.
April	English Declaration of Indulgence.
June	Second Scottish Declaration of Indulgence.
October-December	James canvasses English opinion on repealing the Test Acts.
November	James's remodelling of borough charters begins.
<b>1688</b>	
April-June	James requires re-issued English Declaration of Indulgence to be read in churches. The 'Seven Bishops' are charged with seditious libel for seeking exemption.
June	Birth of James's son, the Pretender. <b>The 'Immortal Seven' invite William to invade England.</b>
September-October	William issues a 'Declaration of Reasons' justifying his invasion. James reverses his Catholicizing policies.
November-December	<b>William's army lands. Churchill and Anne desert James, who flees to France. William occupies London and summons an English Convention.</b>
<b>1689</b>	
January	<b>Meeting of Scottish notables in London advises William on summoning a Scottish convention.</b> English Convention meets.
February	<b>William and Mary accept the offer of joint sovereignty from the English Convention,</b> which becomes a parliament. Louis XIV refuses to recognize their titles.
March	Scottish Convention meets. James lands in Ireland.
April	<b>Scottish Convention approves the Claim of Right and offers the Scottish crown to William and Mary.</b> Dundee leads a Jacobite secession.
May	William and Mary accept the Scottish crown from the Scottish Convention, which becomes a parliament. <b>Declaration of war on France. English Toleration Act.</b>
July	Battle of Killikrankie: Jacobite victory but Dundee killed. The Scottish parliament votes to abolish prelacy.
August	Scottish Jacobites crushed at Dunkeld. An English army lands in Ireland.
December	<b>English Bill of Rights passed.</b>
<b>1690</b>	
February	William dissolves the English Convention parliament and appoints a mixed Tory and Whig ministry including Danby, Nottingham and Shrewsbury.
April-June	<b>Scottish parliament repeals the Act of Supremacy, abolishes the Lords of the Articles and restores presbyterian church government.</b> Shrewsbury resigns.
July	James is defeated at the Boyne and flees to France.
<b>1691</b>	<b>English parliamentary commission of accounts established.</b> <b>Treaty of Limerick ends Jacobite resistance in Ireland.</b>
<b>1692</b>	
January	William dismisses Marlborough. Anne rejects Queen Mary's order to dismiss Sarah.

February	Glencoe massacre.
May	Russell's naval victory at Barfleur/La Hogue ends the French invasion threat.
June-October	Fall of Namur and William's defeat at Steenkirk. <b>William's Irish Parliament meets: the 'sole right' controversy begins.</b>
<b>1693</b>	
March	William vetoes an English Bill for Triennial parliaments and appoints Somers Lord Keeper.
June-July	Earl of Sunderland returns to favour. Loss of the 'Smyrna' convoy. William is defeated at Neerwinden/Landen.
November	William dismisses Nottingham.
<b>1694</b>	
March-July	Shrewsbury returns as English Secretary of State conditional on William's assent to a Triennial Bill. William makes Russell First Lord of the Admiralty and Montagu Chancellor of the Exchequer. Bank of England established.
December	<b>Triennial Act. Queen Mary dies.</b>
<b>1695</b>	
June	<b>William's Scottish High Commissioner, the 1st Marquis of Tweeddale, assents to an Act establishing the 'Africa Company'.</b>
July-November	<b>English financial and liquidity crisis deepens.</b> <b>Irish compromise over 'sole right'.</b> <b>Scottish harvest fails: beginning of the 'Seven Ill Years'.</b> English elections and meeting of parliament.
December	<b>Lords and Commons address against the Africa Company.</b>
<b>1696</b>	
January	<b>Commons threaten to impeach Africa Company promoters.</b>
February-April	'Association Movement' formed in response to the Jacobite Assassination Plot against William. English 'Act for the Better Security of His Majesty's Person' requires office holders and parliamentarians to take the Association oath: exploited by Whigs to eliminate Tory office-holders. English recoinage.
May	<b>Council of Trade established.</b>
<b>1697</b>	
January-April	<b>English Plantation Trade Act.</b>
April-May	<b>Rycaut's Memorial to the Hamburg senate.</b> Earl of Sunderland briefly appointed Lord Chamberlain. William makes Somers English Lord Chancellor and Montagu First Lord of the Treasury.
September	<b>Treaty of Rijswijk ends the Nine Years War.</b>
December	Harley leads English 'Country' attacks on the largely Whig ministry. The standing army controversy begins. Shrewsbury resigns.
<b>1698</b>	
July	<b>Africa Company expedition to Darien sails.</b> Civil List Act. William dissolves English parliament.
August-October	William and Louis XIV negotiate the First Partition Treaty making the Electoral Prince of Bavaria heir to the Spanish Monarchy. Scottish parliament addresses William over Rycaut's <i>Memorial</i> .
November	<b>Africa Company establishes its colony in Darien.</b>
December	<b>New English parliament meets, dominated by Harley's 'New Country Party'.</b>
<b>1699</b>	
January	<b>Electoral Prince of Bavaria dies, requiring a new Partition Treaty.</b>

	<b>William reluctantly assents to a Disbanding Act reducing his army to 7,000 men.</b>
February	<b>Spanish authorities seize the Africa Company ship, <i>Dolphin</i> and imprison its crew.</b>
April	<b>English colonial proclamations prohibit assistance to the Darien colony.</b>
May	<b>Spanish ambassador Canales protests over Darien's breach of the Treaty of Madrid.</b> William assents to the <b>Irish Woollens Act.</b>
June	Darien is evacuated.
August	<b>News of the Darien evacuation and the English proclamations reaches Scotland.</b>
September	Darien relief expedition leaves Scotland.
October	<b>Africa Company petitions William to bring forward the next session of the Scottish parliament.</b> Canales protests over the Second Partition Treaty and is expelled, provoking the expulsion of William's ambassador to Spain. <b>William begins to explore support within the Scottish ministry for union.</b>
November	Relief expedition reaches Darien. Montagu resigns as English First Lord of the Treasury.
December	<b>Scottish 'Country' leaders organize the first National Address</b> , calling for the meeting of the Scottish parliament to be brought forward. Basil Hamilton attempts to deliver the Africa Company's petition over help for the <i>Dolphin's</i> crew. Scottish Privy Council issues a proclamation against addressing.
<b>1700</b>	
January	<b>Peterborough advocates union in the Lords' debate over Ridpath's <i>Enquiry</i>.</b> In a Commons debate over Darien, Seymour compares union with Scotland to marriage to a pauper.
February	<b>Lords address William over Darien. His reply recommends union: the Lords pass a bill for appointing union commissioners.</b>
March	<b>Commons reject the Lords' union commissioners bill.</b> First National Address over Darien presented to William. <b>Darien capitulates to Spanish forces.</b> <b>Second Partition Treaty formally signed.</b>
March-April	<b>Commons tack Irish land grant resumption to supply, provoking an inter-cameral dispute with the Lords. William instructs the Lords to concede. Somers resigns as Lord Chancellor.</b>
May	<b>Scottish parliament meets and supports the assertion of Scotland's right to Darien. The new High Commissioner, Queensberry, adjourns without securing supply.</b>
June	Riots in Edinburgh. Second National Address presented to William.
July	<b>Gloucester dies.</b> News of Darien's Capitulation reaches Scotland.
September	<b>Carlos II's will makes Philippe of Anjou, Louis XIV's grandson, his successor.</b>
October	Third National Address presented. Scottish parliament meets and secures concessions, including <i>Habeas Corpus</i> . <b>Carlos II dies. Louis XIV accepts Carlos's will, breaking the Second Partition Treaty.</b>
December	William appoints a new Tory-dominated English ministry, making Rochester Lord Lieutenant of Ireland and Godolphin First Lord of the Treasury, and dissolves parliament.
<b>1701</b>	
January	<b>Scottish parliament addresses William over Darien but votes supply.</b>

	New English elections produce a Tory-dominated Commons which elects Harley as Speaker. <b>Louis XIV occupies the Dutch barrier fortresses in the Spanish Netherlands.</b>
April	Impeachment proceedings against Portland and Junto ex-ministers commence in the English parliament.
May	<b>English Act of Settlement vests the English succession in Sophia and her Protestant descendants ('The Protestant Succession').</b>
June	Lords dismiss the impeachment proceedings. <b>William makes Marlborough his diplomatic and military plenipotentiary.</b>
August	<b>Grand Alliance treaty signed.</b>
September	<b>James dies. Louis XIV recognizes the Pretender as King of Great Britain.</b> William begins discussions with the Earl of Sunderland and Somers over replacing his English ministry with a Whig/Junto ministry.
November	William dissolves the English parliament. Godolphin resigns.
<b>1702</b>	
January	New English parliament meets and elects Harley as Speaker. William begins to replace Tory ministers with Whigs. Parliament approves the Grand Alliance.
February	<b>William urges union with Scotland to the English parliament.</b>
March	<b>English Abjuration Act imposes an oath repudiating the Pretender.</b> William dies, and <b>Anne succeeds.</b>
May	<b>Anne declares war on France. She replaces English Whig ministers with Tories, making Godolphin Lord Treasurer. An English Act empowers her to appoint union commissioners.</b>
June	Scottish parliament meets, but 'Country' members secede, alleging a breach of the 1696 Act of Security, and petition the Queen for elections. <b>The rump passes Acts granting supply and empowering Anne to appoint union commissioners. Marchmont's attempt to secure a Scottish Abjuration Act splits the ministry's supporters.</b>
August	Anne dissolves the Scottish parliament.
October	<b>New Tory-dominated English parliament meets and elects Harley as Speaker. Scottish elections take place. Reorganization of the Scottish ministry begins: Seafield replaces Marchmont as Chancellor.</b>
November	<b>Union Commissioners meet.</b> Occasional Conformity Bill ('OCB'), 'Princes Bill' and amendments to the Abjuration Act are introduced in the English parliament.
December	<b>English parliament rejects Anne's proposals for Marlborough's life grant.</b> A conference between the Lords and Commons fails to resolve differences over the Lords' amendments to the OCB. <b>At a union commissioners' conference, Scottish access to the Plantations trade is agreed.</b>
<b>1703</b>	
January	Dutch request 'Augmentation' of English war commitments. <b>Union commissioners hold a conference on a common excise and subsequently agree on a temporary Scottish exemption.</b> Further inter-cameral conferences fail to resolve the OCB conflict.
February	<b>Anne adjourns union negotiations.</b> Ormonde replaces Rochester as Lord Lieutenant.
March	Proclamation of indemnity for Scottish Jacobites
May	<b>New Scottish parliament meets and passes an Act of Recognizance confirming Anne's authority and the legality of the last parliament, but then prioritizes consideration of the succession.</b>



	Duke of Argyll introduces an Act for ratifying all actions of the Convention Parliament.
June	General Assembly of the Kirk issues a 'Representation' against toleration; Duke of Argyll's Act makes impugning of the Claim of Right treasonable. <b>Proposed Toleration Act dropped. Debates over a new Act of Security ('AoS') begin.</b>
July	<b>Fletcher's attempt to include 'limitations' in the AoS is defeated</b> , but Roxburgh proposes making alignment of the Scottish succession with England's conditional on constitutional concessions. After the Scottish ministry proposes making alignment conditional on English trade concessions, <b>parliament passes a combined clause requiring both trade <i>and</i> constitutional concessions.</b>
August	<b>AoS and Act anent Peace and War passed.</b>
September	<b>Scottish parliament rejects Marchmont's Act to secure the Protestant Succession but passes the ministry's Wine Act.</b> <b>After Anne refuses assent to the AoS, the Scottish parliament refuses supply and terminates the union commission.</b> Queensberry adjourns without securing supply. <b>Details emerge over the 'Scotch Plot'.</b> <b>Irish parliament meets and confirms the Protestant Succession.</b>
October	Irish parliament makes its 'Representation'.
November	English parliament meets.
December	<b>Lords investigate the 'Scotch Plot' and reject the Second OCB.</b>
<b>1704</b>	
February	Inter-cameral conflict over Nottingham's handling of the Scotch Plot.
March	<b>Anne announces her intention to settle the Protestant Succession in Scotland to a Scottish 'Country' delegation.</b> <b>Lords' address over the Scotch Plot calls for settlement of the Scottish succession: Anne confirms this is her intention.</b> Nottingham demands that Anne dismiss Somerset and Devonshire.
April	<b>Dismissal of Seymour and Jersey from Court offices. Nottingham resigns as English Secretary of State.</b>
May	<b>Tweeddale replaces Queensberry as High Commissioner and Seafield as Scottish Chancellor.</b> <b>Harley appointed English Secretary of State.</b>
June	Johnstone replaces Philiphaugh as Scottish Clerk Register.
July	<b>Anne recommends settlement of the Protestant Succession to the Scottish parliament, but it resolves not to proceed without a prior trade treaty and constitutional concessions.</b>
August	<b>Battle of Blenheim.</b> <b>Scottish parliament effectively tacks the AoS to supply, compelling Anne's assent, passes the Wool Act, permitting the export of wool, and addresses the Queen complaining over the Lords' investigation into the Scotch Plot.</b>
September	Anne adjourns the Scottish parliament and appoints a ' <b>New Party</b> ' ministry.
October	English parliament meets. Commons pass the Third OCB.
November	<b>Attempts to tack the OCB to supply and to censure Godolphin over the AoS are both defeated.</b>
December	English parliament considers legislation to deal with the Scottish 'threat'. Lords reject the Third OCB.
<b>1705</b>	
January-February	<b>English parliament passes the 'Alien Act' empowering Anne to appoint union commissioners if the Scots do likewise, and imposing sanctions if Scotland does not follow the Protestant Succession.</b>

	Annandale and Ormiston are brought into the Scottish ministry. <b>Argyll is selected as High Commissioner.</b>
March	Anne assents to the Alien Act. <b>Newcastle replaces Buckingham as English Lord Privy Seal.</b>
April	<b>Philiphaugh replaces Johnstone as Clerk Register.</b> Argyll arrives in Edinburgh.
May- June	English elections held. <b>Argyll dismisses the New Party ministry. Queensberry is made Scottish Lord Privy Seal.</b> Scottish parliament meets.
July	<b>Anne recommends both settlement of the Protestant Succession and union to the Scottish parliament, which again resolves not to consider the succession without a prior trade treaty and constitutional concessions.</b> <i>The Memorial of the Church of England</i> is published.
August	Scottish parliament passes Rothes' Act limiting royal prerogatives and the 'Embassy Act' for separate Scottish diplomatic representation.
September	<b>Scottish parliament votes supply, and passes an Act empowering Anne to appoint commissioners to negotiate a treaty with England, but makes negotiations conditional on repeal of the 'alien' provisions in the Alien Act.</b> Assent denied for Rothes' Act and the Embassy Act; and parliament is adjourned.
October	New English parliament meets. <b>Cowper replaces Wright as English Lord Keeper. Smith is elected Speaker.</b>
November	<b>Tories</b> propose repeal of the 'alien' provisions in the Alien Act, but with Whig support <b>all its penal provisions are repealed.</b> Tory ' <b>Hanover Motion</b> ' <b>rejected and alternative Regency Bill introduced</b> with Whig support.
December	<b>Tory 'Church in Danger' motion is defeated with Whig support.</b>
<b>1706</b>	
January - February	'Country' pressure for a place clause (the 'whimsical clause') in the Regency Bill.
March	<b>Regency Act passed after a compromise over the place clause. Agreement over English church appointments between Godolphin and the Junto.</b>
April	<b>English union commissioners appointed.</b>
May	<b>Battle of Ramillies.</b>
May-July	<b>Union negotiations and agreement of the Treaty of Union.</b>
October	<b>Scottish parliament meets.</b> Anti-Union riots in Edinburgh quelled by troops. Popular addresses against the Union begin.
November	<b>Scottish Kirk Act passed.</b>
December	<b>Sunderland replaces Hedges as English Secretary of State.</b> English parliament meets. Anti-Union riots take place in Glasgow and Dumfries. Hamilton frustrates a national address against the Union.
<b>1707</b>	
January	Hamilton frustrates an anti-union parliamentary secession and address. <b>Scottish parliament ratifies the Union subject to English acceptance of the 'Explanations' and the Kirk Act.</b>
February	<b>English Church Act passed.</b>
March	<b>Anne assents to the English ratification Act, which accepts the Scottish conditions.</b>
April	<b>Catastrophic Allied defeat at Almanza in Spain. The Commons attempt to close a customs loophole in the Union Treaty (the 'Drawbacks' crisis).</b>
May	<b>The Union creates the new kingdom of Great Britain.</b>

	Conflict with the Junto over ecclesiastical appointments begins (the 'Bishoprics Crisis').
August	Allied failure to capture Toulon.
October	First British parliament meets.
November	<b>Junto and High Tories attack Admiralty mismanagement. Anne and the Duumvirs consider Harley's 'moderate scheme'.</b>
<b>1708</b>	
January	Commons debate the Almanza debacle. Compromise agreement with the Junto ends the Bishoprics Crisis.
February	<b>Junto and <i>Squadron Volante</i> secure abolition of the Scottish Privy Council. Harley fails to replace Godolphin and is dismissed.</b>
March	<b>Failure of the French 'descent' on Scotland led by Forbin.</b>
May	<b>First British elections result in a clear Whig majority.</b>
June	Allied victory at Oudenarde.
September	<b>Junto threaten to attack Admiralty mismanagement to gain high office.</b>
October	<b>Prince George dies.</b>
November	<b>New parliament meets. Anne makes Somers Lord President and Wharton Lord Lieutenant.</b>
<b>1709</b>	
March	Naturalization Act.
April-May	Abortive peace negotiations.
August	Pyrrhic Allied victory at Malplaquet.
November	<b>Anne makes Orford First Lord of the Admiralty.</b>
<b>1710</b>	
January	<b>Marlborough attempts to have Abigail Masham dismissed.</b>
April	<b>Anne replaces Kent as Chamberlain with Shrewsbury and Sunderland as Secretary of State with Dartmouth.</b>
August	<b>Anne dismisses Godolphin. Harley becomes chief minister. Secret peace negotiations with France begin.</b>
September	<b>Anne dissolves parliament, Junto ministers resign or are dismissed, and are replaced with Tories.</b>
October	Election: Tory landslide.

## Chapter 1 Introduction

### Outline

This study examines the origins of the 1707 Union of England and Scotland. For these purposes, the 'Union' is taken to comprise the Acts of the English and Scottish parliaments ratifying the Treaty of Union presented in July 1706 to Anne, Queen of both England and Scotland by virtue of the 'Union of the Crowns', or 'Regal Union.' These Acts incorporated the Treaty, as modified by the Scottish parliament's 'Explanations', and three other Acts protecting either kingdom's respective church settlements and prescribing the basis on which Scottish representatives would be chosen for the new parliament of Great Britain.

This Chapter begins by surveying recent Union scholarship. It notes its predominantly Scottish focus, its application of a bilateral Anglo-Scottish interpretative framework, and its reliance on 20<sup>th</sup> century studies which use a model of parliamentary party conflict to understand English political motives. It describes how these factors support a broad consensus interpretation of the Union as an extemporized Whig-led English parliamentary reaction in 1704 to pressure from Scotland. Implicit in this interpretation is an assessment that the Union of the Crowns, as a 'mere' personal union, lacked coherence and substance, and that the monarchy and its closest advisers, together referred to in this study as a 'Court group', lacked agency and so can be conflated with 'England' and its parliament.

Rather than introducing an English perspective within the context of the traditional bilateral framework, the Chapter argues that an understanding the origins of the Union requires answers to three closely connected questions. These concern the nature of the Union, the agency for it, and its timeline (or, the 'what', 'who' and 'when' questions). The chapter closes with a commentary on the sources used for the purposes of answering these questions, and an outline of the structure of the study supporting its conclusion that the Union originated in a consistent policy pursued by a powerful Court group independent of English and Scottish parliamentary pressure.

## The Nationalist stimulus

The Scottish Nationalist narrative developed at the end of the 20<sup>th</sup> Century broadly presents the Union as an English imposition which terminated Scottish independence.<sup>1</sup> According to this narrative, Scottish sovereignty was forcefully asserted in legislation passed by the Scottish parliament in 1703-1704, notably the 1703 Act anent Peace and War and the Act of Security, passed in 1703 and given royal assent in modified form in 1704.<sup>2</sup> The former denied Anne's successor the right to make war or peace without Scottish parliamentary approval. The latter asserted the Scottish parliament's right to determine Anne's successor independently from the English parliament. These measures provoked a 'legislative war' with England, culminating in the realization through the Union of England's long-standing ambition of bringing Scotland under its control. The apparent *volte-face*<sup>3</sup> whereby the hitherto defiant Scottish parliament was induced to ratify the Union is explained by systematic English bribery and intimidation. The latter was manifested in the outright 'economic blackmail'<sup>4</sup> of the so-called 'Alien Act' (which threatened Scotland with sanctions if it did not legislate to follow the English succession after Anne's death)<sup>5</sup> and the menace of military force. Opponents of the Union, in particular Fletcher of Saltoun, are celebrated as principled 'patriots' while its Scottish supporters are denounced as either English collaborators or traitors motivated by self-interest and corrupted by English bribery.<sup>6</sup>

Implicit in this narrative are the assumptions that the Union of the Crowns was an insubstantial personal union and that Scotland was a viable stand-alone polity at the beginning of the eighteenth

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<sup>1</sup> For example, P.H. Scott, *Andrew Fletcher and the Treaty of Union* (Edinburgh, 1992); *The Union of 1707: Why and How* (Edinburgh, 2006).

<sup>2</sup> Legislation passed by the Scottish parliament but which did not receive royal assent was referred to as an 'Act'.

<sup>3</sup> The phrase is T.C. Smout's: *Scottish Trade on the Eve of Union, 1660-1707* (London and Edinburgh, 1963), p. 259.

<sup>4</sup> B. Lenman, *An Economic History of Modern Scotland* (London, 1977) p. 54.

<sup>5</sup> *An Act for the Effectual Securing the Kingdom of England from the apparent Dangers that may arise from several Acts lately passed in the Parliament of Scotland* (3 & 4 Anne, c. 26).

<sup>6</sup> For example, Scott, *Andrew Fletcher*, pp. 125-126; M. Fry, *The Union: England, Scotland and the Treaty of 1707* (Edinburgh, 2013), p. 32, pp. 38-39, pp. 72-75, pp. 82-84 and pp. 222-227.

century. It plays down the importance of economic forces in driving Scotland towards the Union,<sup>7</sup> and points to evidence that the Scottish economy was prospering, or alternatively, recovering from the 'Ill Years' of the 1690s, by 1707. Similarly, it emphasizes differences between the two kingdoms and the absence of any significant 'British' identity. Inevitably, in representing the loss of a separate Scottish parliament as a catastrophic loss of sovereignty to England, it interprets the Union in terms of a bilateral Anglo-Scottish conflict in which the Queen and her principal advisers are conflated with 'England'.

### Riley and Ferguson

This narrative owes much to highly influential mid-20<sup>th</sup> century studies of the Union by Riley<sup>8</sup> and Ferguson.<sup>9</sup> Against a background of the post-war collapse of British imperial power, and based on a 'Namierite' examination of contemporary political correspondence and records, these studies debunked the alleged representation of the Union in pre-war 'Whig' historiography as a principled act of statesmanship.<sup>10</sup> In doing so they challenged the view that the Union was the outcome of consistent policy, drawing attention to alternating attempts either to negotiate a union or to settle the open Scottish succession, and to egregious examples of individual inconsistency and opportunism. On this basis, Ferguson concluded that 'to assume...that powerful parties in both kingdoms throughout strove consistently, and with rare statesmanship, for incorporating union is to fly in the face of the facts.'<sup>11</sup> Riley similarly found that 'for those who took part, the union of the

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<sup>7</sup> As argued by Smout in *Scottish Trade*.

<sup>8</sup> P.W.J Riley, *The Union of England and Scotland: a Study in Anglo Scottish Politics of the Eighteenth Century* (Manchester, 1978); 'The formation of the Scottish Ministry of 1703', *SHR*, 44 (1965), pp. 112-34; 'The Scottish Parliament of 1703', *SHR*, 47 (1968), pp. 129-150; and 'The Union of 1707 as an Episode in English Politics', *EHR*, 84 (1969), pp. 498-527.

<sup>9</sup> W. Ferguson, *Scotland's Relations with England: A Survey to 1707* (Edinburgh, 1977); 'The Making of the Treaty of Union of 1707', *SHR*, 43 (1964), pp. 89-110; and 'Imperial Crowns: A Neglected Facet of the Background to the Treaty of Union of 1707', *SHR*, 53 (1974), pp. 22-44.

<sup>10</sup> For example, in G.M. Trevelyan, *England under Queen Anne: Ramillies and the Union with Scotland* (London, 1930-2); and P. Hume Brown, *The Legislative Union of England and Scotland* (Oxford, 1914).

<sup>11</sup> Ferguson, *Relations*, p. 180.

kingdoms was no more than a solution to very limited, even parochial difficulties. And even so it was a largely fortuitous occurrence.<sup>12</sup>

Both Riley and Ferguson dismissed the importance of economic factors, or 'trade', in the origins of the Union, although for different reasons. Ferguson was particularly concerned to rebut what he saw as economic determinism in Smout's study of the pre-Union Scottish economy, while Riley dismissed debate over trade in the same way that he dismissed the significance of religious and political principles: they were merely 'camouflage' for self-interest. They also differed in emphasis over the origins of the Union. Riley attributed it primarily to English political manoeuvrings following the exclusion of the Junto Whigs<sup>13</sup> from office at the start of Anne's reign and their efforts to recover power, culminating in their successful exploitation of the rupture in 1704 between the Queen's chief ministers and their erstwhile High Tory allies. According to this interpretation, the Union was a result of 'high-political manoeuvring at Westminster, as the Lord Treasurer Godolphin and the Whig politicians with whom he was in uneasy alliance each succeeded in convincing themselves that they stood to profit by the arrangement.'<sup>14</sup> It was, therefore, 'made in England' although not for reasons of statesmanship. Riley famously concluded that:

The union was made by men of limited vision for very short-term and comparatively petty, if not squalid, aims. In intention it had little to do with the needs of England and even less with those of Scotland, but a great deal to do with private political ambitions...<sup>15</sup>

This view supports one recent assessment that the Union was an incoherent, improvised and ill-judged English reaction to the failure to settle the Scottish succession in 1704, never fit for purpose, being 'an unintended by-product' of the English 'rage of party.'<sup>16</sup>

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<sup>12</sup> Riley, *Union*, xvi.

<sup>13</sup> See 'Who's Who', pp. 6-7.

<sup>14</sup> D.W. Hayton, 'Constitutional Experiments and Political Expediency 1689-1725', in S.G. Ellis and S. Barber (eds.) *Conquest and Union: Fashioning a British State, 1485-1725* (London, 1995) p. 277.

<sup>15</sup> Riley, *Union*, foreword, p. xvi.

<sup>16</sup> R. Finlay, 'Andrew Fletcher, England, Europe and the Search for a New British Polity', Fletcher of Saltoun Lecture, 6 September 2012 (available through the University of Strathclyde website).

Ferguson, while accepting Riley's bleak assessment of English politicians and their Scottish creatures, celebrated the assertion of Scottish sovereignty by the Scottish parliament in the 'legislative war' of 1703-1705. In his narrative, this precipitated a 'crisis' with England which was only resolved by England's imposition of the Union. He concluded that 'the treaty was virtually an accidental by-product of the crisis in Anglo-Scottish relations and neither the fruition of an age-old English plot to subdue Scotland nor yet the result of consummate poker-playing by the Scottish parliament'.<sup>17</sup>

Based largely on the evidence of Lockhart's Jacobite memoir and Mar's correspondence,<sup>18</sup> he also argued that the principal means by which the Union was imposed was the systematic use of bribery and corruption, and that this could not be dismissed as merely the ordinary working of contemporary politics.<sup>19</sup>

### Principle and political economy restored

The Nationalist narrative has stimulated intensive scholarly interest in the Union, notably studies by Macinnes, Whatley, Patrick, and Bowie.<sup>20</sup> These have reasserted the importance of political and religious principles for both opponents and proponents of the Union. For example, Macinnes has concluded that 'political incorporation with England was neither a foregone conclusion nor an unsophisticated exercise in political management...' and that 'issues of principle were not sidelined by the manipulative political influences that purportedly dominated the last session of the Scottish Estates.'<sup>21</sup>

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<sup>17</sup> Ferguson, *Relations*, p. 197.

<sup>18</sup> 'Lockhart' and 'HMC Mar & Kellie': see 'Abbreviations', pp. 3-4.

<sup>19</sup> Ferguson, *Relations*, pp. 182-185.

<sup>20</sup> A.I. Macinnes, *Union and Empire* (Cambridge, 2007); Whatley, *The Scots and the Union* (Edinburgh, 2014) and 'The Issues Facing Scotland in 1707', *SHR*, 87 (Supplement) (2008), pp. 1-30; C.A. Whatley & D.J. Patrick, 'Persistence, Principle and Patriotism in the Making of the Union of 1707: the Revolution, Scottish Parliament and the *Squadron Volante*', *History*, 92 (2007) pp. 162-86; K. Bowie, 'Publicity, Parties and Patronage: Parliamentary Management and the Ratification of the Anglo-Scottish Union', *SHR*, 87 (Supplement) (2008), pp. 78-93.

<sup>21</sup> Macinnes, *Union & Empire*, p. 9.



Similarly, Colin Kidd has argued that Unionism, far from being a 'lap dog' ideology of English collaborators has an authentically Scottish history. Opponents of the Union were not necessarily opposed to union in principle, but rather objected to the specific terms of the proposed Treaty, many of its most vocal opponents arguing for a 'federal union'.<sup>22</sup> Accordingly, Scottish debate over the Treaty in 1706-1707 'largely took the form of an intra-unionist conversation'.<sup>23</sup>

Whatley and Patrick have sought in particular to rehabilitate the reputation of the 'Revolution Interest' whose primary concerns were to preserve the achievements of the Scottish Revolution of 1688-1689 and to prevent the return of the Stuarts and 'arbitrary' government. Based on the work of the St. Andrews' Scottish Parliament Project and Keith Brown and Alasdair Mann,<sup>24</sup> their studies of voting patterns in the Scottish parliament suggest a strong correlation between 'Revolutioners' and support for the Union. Importantly, this Revolution Interest included not only Scottish ministry and its supporters but also the approximately 25 members of the 'New Party' (later known as the '*Squadron Volante*' or '*Squadron*'), who had formed part of the Scottish parliamentary opposition in 1703 and provided some of its most prominent leaders.<sup>25</sup> Many Revolutioners had served as union commissioners in 1702-1703 and for some their unionist pedigree stretched back to 1689. Others had been imprisoned or exiled by the Royalist regime that preceded the 'Glorious Revolution', and accompanied William III of Orange's invasion in November 1688.<sup>26</sup> For such men, 'Unionism and patriotism could be comfortable bedfellows.'<sup>27</sup>

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<sup>22</sup> For example, [George Ridpath], *A Discourse upon the Union of Scotland and England* (Edinburgh, 1702), pp. 93-98; and [James Hodges], *The Rights and Interests of the Two British monarchies inquir'd into and cler'd. Treatise I* (London, 1703-1706), pp. 1-18.

<sup>23</sup> C. Kidd, *Union and Unionisms: Political Thought in Scotland 1500-2000* (Cambridge, 2008), p. 68.

<sup>24</sup> K.M. Brown and A.J. Mann (eds.) *The History of the Scottish Parliament, Volume ii, Parliament and Politics in Scotland 1500-1700* (Edinburgh, 2005).

<sup>25</sup> Notably Tweeddale and Roxburgh. Hamilton and Fletcher are widely given prominence at their expense.

<sup>26</sup> G. Gardner, *The Scottish Exile Community in the Netherlands 1660-1690* (East Linton, 2004).

<sup>27</sup> Whatley & Patrick, 'Persistence, Principle and Patriotism', pp. 177-184; Whatley, *Scots & Union*, pp. 36-38, pp. 87-93, p. 233 and pp. 266-270; 'Issues Facing Scotland', pp. 10-11 and 26-28; and 'Reformed Religion, Regime Change, Scottish Whigs and the Struggle for the "Soul" of Scotland, c.1688-c.1788', *SHR*, 92 (2013), pp. 66-99.

Revolutioners were also concerned to preserve the Scottish Revolution's presbyterian church settlement, for political principle was often connected with confessional affiliations. In particular, whatever their feelings about the Union, most presbyterians were committed to the Hanoverian succession to the Scottish crown.<sup>28</sup> Jeffrey Stephen has demonstrated the intimate connection between the Revolution, the Scottish parliament and the Kirk, and reasserted the importance of presbyterian opinion in the debate over the Union in 1706-1707.<sup>29</sup> Alasdair Raffe, meanwhile, has explored the political significance of the divisions between Scottish episcopalians and presbyterians and shown how the experience of Stuart persecution created a 'presbyterian memory'. He has also traced the impact of Scottish episcopalian polemic on English ecclesiastical and political opinion.<sup>30</sup> Whereas Stephen and Raffe have emphasized religious division, however, Kidd has argued that the development of moderate thinking within Scottish presbyterianism facilitated the acceptance of the Union's pluralistic religious settlement.<sup>31</sup> This debate over political and religious principle was not confined to parliament and the General Assembly of the Kirk. Karen Bowie in particular has described the emergence of a vigorous Scottish public discourse which influenced political outcomes.<sup>32</sup>

MacInnes and Whatley have also reasserted the importance of economic factors in understanding the origins of the Union, although taking very different positions on the strength of the pre-Union Scottish economy and drawing very different conclusions. Whatley focuses on the importance of trade for Scottish supporters of the Union.<sup>33</sup> Modifying Smout's analysis, he argues that Scotland's

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<sup>28</sup> Whatley, *Scots & Union*, pp. 42-46, pp. 246-247 and pp. 281-283, and 'Reformed Religion', p. 69 and p. 93.

<sup>29</sup> J. Stephen, *Scottish Presbyterians and the Act of Union* (Edinburgh, 2007); and 'Defending the Revolution: The Church of Scotland and the Scottish Parliament, 1689-95', *SHR*, 89 (2010), pp. 19-53.

<sup>30</sup> A. Raffe, 'Presbyterianism, Secularization, and Scottish Politics after the Revolution of 1688-90', *Historical Journal*, 53 (2010), pp. 317-337; 'Presbyterians and Episcopalians: The Formation of Confessional Cultures in Scotland, 1660-1715', *EHR*, 125 (2010) pp. 570-598; 'Episcopalian Polemic, the London Printing Press and Anglo-Scottish divergence in the 1690s', *Journal of Scottish Historical Studies*, 26 (2006), pp. 23-41.

<sup>31</sup> C. Kidd, 'Religious realignment between the Restoration and Union', in J. Robertson (ed.) *A Union for Empire: Political Thought and the British Union of 1707* (Cambridge, 1995), pp. 145-168.

<sup>32</sup> K. Bowie, *Scottish Public Opinion and the Anglo-Scottish Union 1699-1707* (Chippenham, 2007).

<sup>33</sup> C.A. Whatley, 'Taking Stock: Scotland at the end of the 17<sup>th</sup> century', in T.C. Smout, (ed.) *Anglo-Scottish Relations from 1603 to 1900* (Oxford, 2005), pp. 102-125.

economy suffered from important long-term structural weaknesses, including adverse trade balances with every country except England and a chronic lack of specie and manufacturing capacity, which impelled it towards an accommodation with England over trade. These weaknesses were accentuated by the effect of the Nine Years' War on Scottish commerce, discriminatory English duties, the failure of the Darien project, and disastrous crop failures in 1697-99. Taken together, Whatley argues, they 'tipped Scotland over the edge of an economic abyss' at the end of the seventeenth century from which, crucially, it had still not recovered by 1707.<sup>34</sup> This argument has been supported by K.J. Cullen's study demonstrating the sheer scale of the end-of-century famine.<sup>35</sup> Importantly, Whatley shows how these economic problems were explicitly recognized and acted on by individual Scottish politicians. For example, the vast majority of MPs who sat on the Trade Committee established by the Scottish parliament in 1705 to examine the state of the Scottish economy voted for union in 1706-1707.<sup>36</sup> By contrast, T.M. Devine and Macinnes have argued for an altogether more upbeat assessment of the pre-Union Scottish economy. Devine focuses on Scottish agriculture and concludes that the 'ill years' were an 'aberration' in its ability to feed the nation.<sup>37</sup> Macinnes' analysis, however, is based on trading activity. He argues that on the eve of Union, not only had Scotland recovered from the 'ill years' but that it had a capacity for growth which studies in the Smout tradition have overlooked. His case mainly rests on the arguments that many Scots merchants had extensive European trading networks, were specialists in the lucrative tramping (that is, carrying) trade and were adept at evading the restrictions imposed by the English Navigation Acts.<sup>38</sup>

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<sup>34</sup> Whatley, *Scots & Union*, pp. 119-124; pp. 128-139; and pp. 202-217.

<sup>35</sup> K.J. Cullen, *Famine in Scotland: the 'Ill Years' of the 1690s* (Edinburgh, 2010).

<sup>36</sup> Whatley, *Scots & Union*, pp. 212-215; and 'Economic Causes and Consequences of the Union of 1707: A Survey', *SHR*, 68 (1989), pp. 150-181.

<sup>37</sup> T.M. Devine, 'The Union of 1707 and Scottish Development', in *Scottish Economic and Social History*, 5 (1985), pp. 24-27.

<sup>38</sup> Macinnes, *Union & Empire* pp. 205-210 and pp. 216-231.

## The English dimension

Recent scholarship has, however, paid only limited attention to the Union's non-Scottish dimension. This is striking given general agreement that English commitment to it was decisive.<sup>39</sup> According to Tim Harris, 'The union negotiations of 1706...came to fruition because the English were now determined that they should.'<sup>40</sup> Hayton, closely following Riley, argues that Scotland could have been brought to union any time after the Revolution and that the 'key to union' was to be found in England.<sup>41</sup> Given that in 1700 the English parliament rejected a bill for appointing union commissioners and that 'English indifference' is alleged to have been responsible for the failure of union negotiations in 1702-1703,<sup>42</sup> this apparent English *volte face* demands an explanation as much as that of the Scottish parliament.

To the extent that recent scholarship has addressed this question, it broadly follows Ferguson in attributing the change in English attitudes to a 'crisis' precipitated by Scotland.<sup>43</sup> With the exception of Macinnes, this crisis is generally presented as primarily political, reflecting the leverage afforded by the open Scottish succession.<sup>44</sup> The English responded with the Alien Act, which simultaneously empowered the Queen to appoint commissioners to negotiate an incorporating union (provided the Scots did the same) and threatened economic sanctions if Scotland did not follow the Hanoverian succession ordained by the 1701 English Act of Settlement (the 'Protestant Succession').

In nationalist narratives, the English reaction is provoked by the assertion of Scottish sovereignty.<sup>45</sup> For Whatley and Bowie, it is attributable to Scottish initiatives to *remodel* the constitutional and trading relationship with England. Bowie characterizes these initiatives as 'a country party parliamentary programme that sought to force a renegotiation of the British union through acts of

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<sup>39</sup> For example, Whatley, 'Issues Facing Scotland', pp. 18-20.

<sup>40</sup> T. Harris, *Revolution: The Great Crisis of the British Monarchy 1685-1720* (London, 2006), p. 497.

<sup>41</sup> Hayton, 'Constitutional Experiments and Political Expediency', p. 277.

<sup>42</sup> Discussed below, pp. 205-211.

<sup>43</sup> Ferguson, *Relations*, p. 197.

<sup>44</sup> For example, Macinnes, *Union & Empire*, pp. 269-270; Whatley, *Scots & Union* pp. 228-229; Bowie, 'Publicity, Politics and Patronage', pp. 89-90. Compare with Ferguson, *Relations*, pp. 222-223.

<sup>45</sup> Scott, *Andrew Fletcher*, pp. 121-122.

reform and a treaty with England.’<sup>46</sup> As this programme directly challenged fundamental English objectives and threatened important English interests, it could not be ignored.<sup>47</sup> The crisis which it provoked was resolved only when England engaged ‘with longstanding demands for reform of the Anglo-Scottish union, and particularly for a treaty on trade.’<sup>48</sup> Whatley emphasizes English and especially Tory equivocation over union and the critical importance of the Scottish insistence on trade and constitutional concessions:

There is no doubt that from 1703...Anne and her advisers were doubly determined that the Scots should agree to the Hanoverian succession...what is less clear is whether incorporation on terms that would be acceptable to the Scots was to be the means of achieving court goals. The Alien Act had not insisted on union; the Scots’ agreement to the Hanoverian succession alone might have satisfied. If the Scots were to insist on concessions, however, incorporation was to be the vehicle by which these would be forthcoming.<sup>49</sup>

According to these narratives, therefore, the English were happy with the *status quo*: ‘For most Englishmen, the idea of union with Scotland was something they could not have foreseen before 1702 or even 1705, when negotiations began in earnest.’<sup>50</sup> What changed their minds was Scotland’s attempt either to assert its ‘independency’ or to reform the Regal Union.<sup>51</sup> This interpretation has a long pedigree: Clerk<sup>52</sup> considered that if the Scottish parliament had not refused to accept the English Successor in 1704, there would have been no Union.<sup>53</sup> Near-contemporary English

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<sup>46</sup> Bowie, *Scottish Public Opinion*, p. 67.

<sup>47</sup> I. McLean and A. McMillan, *State of the Union: Union and the Alternatives in the United Kingdom since 1707* (Oxford, 2005), p. 4.

<sup>48</sup> Bowie, ‘Publicity, Parties and Patronage’, p. 90.

<sup>49</sup> Whatley, ‘Issues Facing Scotland,’ pp. 18-20.

<sup>50</sup> Alexander Murdoch, ‘The Legacy of Unionism in Eighteenth-Century Scotland’, in T.M. Devine (ed) *Scotland and the Union 1707-2007* (Edinburgh, 2008), p. 78.

<sup>51</sup> Ferguson, *Relations*, p. 217.

<sup>52</sup> See ‘Who’s Who?’ p. 7.

<sup>53</sup> NRS, GD 18/6080, p. 120.

commentators shared this view, and indeed felt that if the Scots disliked the outcome, they had only themselves to blame for overplaying their hand.<sup>54</sup>

Recent Union scholarship with a non-Scottish perspective also endorses this conclusion. For instance, Tim Harris's study of the British monarchy between 1685 and 1720 argues that the 1688-1689 English and Scottish Revolutions 'increased tensions between the two kingdoms and made some sort of redefinition of the Anglo-Scottish relationship inevitable.'<sup>55</sup> At a high level, therefore, the origins of the Union lie in the 'Glorious Revolution'. However, while offering parallel accounts for each kingdom in keeping with Pocock's 'New British History' approach, Harris's detailed account broadly follows Ferguson: the English, faced with a crisis caused by Scotland's attempt to 'go it alone' with the Act of Security, can see no other solution but a treaty of union, and therefore retaliate with the Alien Act.<sup>56</sup>

Macinnes offers an alternative explanation. Observing that in 1703 England was 'content to break off negotiations for union with Scotland and to refuse overtures for union from Ireland', he argues that considerations of political economy, effected through the Council of Trade, explain the change in English attitudes.<sup>57</sup> He challenges the narrative of Scottish poverty and the view that union and free trade were overwhelmingly attractive to Scottish trading interests, and argues that Scottish success in eluding English customs duties on trade with the English Plantations compelled England to seek union as a means of preventing the erosion of customs revenues required to finance the war with France. Furthermore, he argues, England faced a 'demographic deficit' and required Scottish manpower for its wars and colonies.<sup>58</sup> The Scottish union commissioners, rather than being supine tools of England, were therefore 'inept' in failing to recognize and exploit their strong negotiating

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<sup>54</sup> J. Oldmixon, *The History of England during the reigns of King William & Queen Mary, Queen Anne, and King George I* (London, 1735), p. 375.

<sup>55</sup> Harris, *Revolution*, pp. 494-500.

<sup>56</sup> Harris, *Revolution*, p. 497.

<sup>57</sup> A.I. Macinnes, 'The Treaty of Union: made in England', in T.M. Devine (ed.) *Scotland and the Union 1707-2007* (Edinburgh, 2008), p. 59.

<sup>58</sup> Macinnes, *Union & Empire*, pp. 181-200, p. 243, and p. 277; summarized in 'Treaty of Union', pp. 54-74.

position.<sup>59</sup> At the same time, however, Macinnes draws attention to the determination of the Queen to resist the challenge to her prerogatives represented by constitutional initiatives in the Scottish parliament, bringing his analysis closer to Bowie's and Whatley's.<sup>60</sup>

The proposition that economic and customs revenue considerations played an important part in English motivation is not new. As early as 1910, Theodora Keith drew attention to official trade figures and the connection between customs union and political union. As well as describing how concern over Scottish involvement in illicit colonial trading stimulated English support for union, she argued that the smuggling of English wool across the Scottish border (encouraged by the Scottish parliament's 1704 Wool Act allowing raw wool exports), was a constant subject of complaint by powerful English textile interests for whom union offered a potential solution.<sup>61</sup>

As for the English reaction to this Scottish pressure, recent scholarship broadly follows the 20<sup>th</sup> century narratives of Ferguson, Holmes, Speck and Riley.<sup>62</sup> These describe a transformative conjunction in 1704 of the failure to carry the Hanoverian succession in Scotland, followed by royal assent to the Act of Security, with the collapse of the English ministry's alliance with the High Tories. This precipitated a fundamental shift in the balance of power which greatly enhanced the traction of Scottish affairs in English politics. Accordingly, Scottish ministerial defeats became English political liabilities and exposed Lord Treasurer Godolphin to English parliamentary censure. Consequently, 'No longer could Godolphin regard Union...as a side issue.'<sup>63</sup> The English ministry was obliged to pass the Alien Act, releasing political dynamics in both kingdoms that brought them to the brink of conflict which could only be resolved by a remodelling of the Regal Union. In Whatley's narrative,

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<sup>59</sup> Macinnes, *Union & Empire*, p. 240.

<sup>60</sup> Macinnes, *Union & Empire*, pp. 254-269.

<sup>61</sup> T. Keith, *Commercial Relations of Scotland and England 1603-1707* (Cambridge 1910), pp. 102-109.

<sup>62</sup> Compare Macinnes, *Union & Empire*, pp. 269-270; Whatley, *Scots & Union* pp. 228-229 and 'Issues Facing Scotland', pp. 18-20; and Bowie 'Publicity, Politics and Patronage', pp. 89-92; with Ferguson, *Relations*, pp. 222-223; G.S. Holmes, *The Making of a Great Power: Late Stuart and early Georgian Britain, 1660-1722* (London, 1993), pp. 310-313, and *British Politics in the Reign of Anne* (London, 1987) p. 110 ; W.A. Speck, *The Birth of Britain: A New Nation 1700-1710* (London, 1994) pp. 80-81; Riley, *Union*, pp. 119-123 and 'Union as an Episode in English Politics', p. 507.

<sup>63</sup> Holmes, *Great Power*, p. 312.

which follows Holmes and Trevelyan before him, 'thinking men' peer over the 'abyss' in 1705 and seek a negotiated solution.<sup>64</sup> In Nationalist narratives, this crisis is resolved by the English imposition of an incorporating union using bribery and threats of economic and military force. Finlay offers a neat synthesis of current Scottish scholarship with Riley's cynical assessment of English motivation, where the union is a clumsy, incoherent reaction to the Act of Security borne of English indifference and driven by English party politics, which fails even to meet English national interests.<sup>65</sup>

### Union as a Whig achievement

Recent scholarship also follows Riley, Holmes and Speck by accepting the importance of party conflict for understanding the English reaction and in making the Whigs responsible for it. The English ministry which reacts to the unfolding Scottish crisis is presented as either a Whig ministry or one dominated by Whigs.<sup>66</sup> Whatley, closely following Riley,<sup>67</sup> argues that Whig commitment to union was based on political calculation: 'It was Whigs who were keener, seeing in incorporating union a vehicle for entrenching their authority at Westminster, provided Scottish Whigs retained the upper hand and were able to send [parliamentary] reinforcements south from 1707'.<sup>68</sup> By contrast, he consistently portrays the Tories as hostile to union.<sup>69</sup>

Holmes and Speck differ fundamentally from Riley over Whig motivation. While acknowledging Whig astuteness, they make the Union an expression of commitment to 'Revolution principles' (a view shared with earlier narratives such as Trevelyan's). Whig commitment to these principles is exemplified by their decision not to join with the Tories to bring down the ministry in 1704 over the 'Tack' and the Scottish Act of Security.<sup>70</sup> Realizing that, following the collapse of the ministry's

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<sup>64</sup> Whatley, *Scots & Union*, pp. 248-249.

<sup>65</sup> Finlay, *Fletcher of Saltoun Lecture*, pp. 9-13.

<sup>66</sup> Macinnes, *Union & Empire*, pp. 269-270; Whatley, *Scots & Union*, p. 229; Bowie 'Publicity, Politics and Patronage', p. 89.

<sup>67</sup> Riley, *Union*, pp. 163-166.

<sup>68</sup> Whatley, 'Issues Facing Scotland', p. 19.

<sup>69</sup> Whatley, *Scots & Union*, p. 261.

<sup>70</sup> Holmes, *British Politics*, p. 110; Speck, *Birth of Britain*, p. 81 and fn. 46.



alliance with the High Tories, they had ‘the Lord Treasurer’s head in a bag’,<sup>71</sup> they were able impose terms on Godolphin and assume control over the English response to Scottish pressure. They devised the Alien Act, led the negotiation of the Union treaty in 1706, and secured its ratification.<sup>72</sup>

Riley concurs with Holmes and Speck that the Whigs successfully exploited the rupture between the English ministry and the High Tories and, like them, makes the Alien Act their work.<sup>73</sup> However, he goes much further both in terms of his assessment of their influence and the cynicism of their motivation. Every twist and turn in the ministry’s dealing with Scotland is attributed to Whig, and specifically Junto, pressure. Moreover, far from supporting union out of principle, they initially oppose it in order to protect their slender House of Lords majority.<sup>74</sup> They only commit to union *after* the Scottish parliament’s Act empowering the Queen to appoint commissioners to negotiate a Treaty with England, on the basis of a hard-nosed calculation that if they could control the negotiations, they would benefit in terms of parliamentary support.<sup>75</sup>

### The primacy of parliament

Notwithstanding these differences, there is a broad consensus that in 1704-1705 there was a conjunction of pressure from Scotland with the English ministry’s political weakness which together created a crisis out of which the Union emerged under Whig direction. Implicit in this narrative is the assessment of Post-Revolution English politics as ‘political anarchy’ in which party conflict provides the ‘indispensable framework’ for understanding political motives and actions, and ‘ministers and ministries...toppled and changed like a kaleidoscope tossed by a gale’ before the ‘rage of party.’<sup>76</sup> In these conditions, Anne and her chief advisers are represented as, if not helpless, at least

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<sup>71</sup> Boyer, *History of the Life and Reign of Queen Anne* (London, 1722), p. 177.

<sup>72</sup> Holmes, *British Politics*, pp. 84-85.

<sup>73</sup> Riley, ‘Union as an Episode in English Politics’, p. 507.

<sup>74</sup> Riley, *Union*, pp. 163-166.

<sup>75</sup> Riley, ‘Union as an Episode in English Politics’, pp. 513-514.

<sup>76</sup> J.H. Plumb, *The Growth of Political Stability in England 1675-1725* (London, 1967), p. 2, p. 65 and pp. 129-158; Holmes, *British Politics*, p. 185, and *Great Power*, pp. 384-385.

exceptionally vulnerable to pressure from parliament and the 'merciless men of both parties'.<sup>77</sup> They are therefore accorded only limited autonomy, being conflated with England and the English parliament, so that the Union is interpreted within the framework of bilateral Anglo-Scottish conflict and originates in English parliamentary politics.

This assessment is based on the impact on the monarchy of the pronounced shift in the importance and role of the three parliaments as a result of the Revolutions of 1688-1689 and the consequent wars with France.<sup>78</sup> 'The English monarchy,' Harris concludes, 'became limited, bureaucratic and parliamentary. It ceased to be a personal monarchy in quite the same way it had been under Charles II or James II.' While noting the constitutional limitations imposed on William, Harris is in no doubt that under Anne there was a step-change in this process on account of her sex, poor health, lack of experience and limited grasp of business.<sup>79</sup> This judgement is reinforced by Bucholz's study of the declining influence of the Court as an institution in English political life.<sup>80</sup> Major government initiatives in Anne's reign are therefore attributed almost exclusively to parliamentary politicians, notwithstanding attempts to put her at the centre of politics.<sup>81</sup> For example, Riley makes William responsible for the union initiatives in 1700 and 1702-1703,<sup>82</sup> but accords Anne only a marginal role.<sup>83</sup> The Queen's well-known support for union and concern to protect her prerogatives are routinely acknowledged without attaching material significance to them, although Scottish studies tend to be more generous.<sup>84</sup> Godolphin, Marlborough, and Harley<sup>85</sup> are similarly interpreted in a

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<sup>77</sup> The Queen's description: B. Curtis Brown (ed.), *The Letters and Diplomatic Instructions of Queen Anne* (London 1935), p. 172.

<sup>78</sup> Summarized in H. Horwitz, *Parliament, Policy and Politics in the Reign of William III* (Manchester, 1977), pp. 313-315.

<sup>79</sup> Harris, *Revolution*, pp. 492-494.

<sup>80</sup> R.O. Bucholz, *The Augustan Court; Queen Anne and the Decline of Court Culture* (Stamford, 1993).

<sup>81</sup> For example, E. Gregg, *Queen Anne* (London, 1980), pp. 179-180, gives Anne a central role in the dismissal of the High Tories.

<sup>82</sup> Riley, *Union*, pp. 22-26.

<sup>83</sup> Riley, *Union*, p. 31.

<sup>84</sup> For example, Whatley, 'Issues Facing Scotland', p. 4 and 'The Making of the Union of 1707: History with a History', in T.M. Devine (ed.) *Scotland and the Union 1707-2007* (Edinburgh, 2008), p. 26; Finlay, *Saltoun Lecture*, pp. 11-12.

<sup>85</sup> See 'Who's Who', p. 5.

parliamentary rather than monarchical context, being treated primarily as parliamentary ‘managers’ and holders of English high office, rather than as the Queen’s closest advisers.

There is a similar consensus that the shift in English opinion took place between 1703, when ‘English indifference’ caused the collapse of union negotiations, and 1705, when the English parliament passed the Alien Act. This is based on two premises: firstly, that earlier union initiatives in 1700 and 1702-1703 were unconnected with the 1706 negotiations;<sup>86</sup> and secondly that the 1704 attempt to settle the Scottish succession by way of an Act of Settlement in return for constitutional concessions marked a fresh start which excluded the possibility of union.<sup>87</sup>

### The objectives of this study

It will be apparent from the foregoing survey that late 20<sup>th</sup> century studies have exerted a powerful influence over recent Union scholarship. The Union continues to be interpreted in terms of an Anglo-Scottish parliamentary conflict in which the Queen and her advisers have at best limited agency, and there is a decisive change in English attitudes in 1704 in reaction to pressure from Scotland.

Ferguson’s narrative, in which this pressure is political and creates a crisis from which the Union emerges, continues to be widely endorsed by scholars within and without the Nationalist tradition. That this reaction was Whig-led and parliamentary, as argued by Riley, Holmes and Speck, similarly commands general support. Finally, although Riley’s assessment of Scottish politicians has been revised, his assessment of English politicians has not.

This study challenges this broad consensus. It argues that an understanding of the origins of the Union requires answers to three closely connected questions. The first is the question of what changes the Union actually made to the existing relationship between Scotland and England. This involves an assessment of the Union of the Crowns and an examination of the terms of the Union. The second is the question of agency for the Union, which requires a reassessment of the roles of

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<sup>86</sup> Riley, *Union*, pp. 178-182.

<sup>87</sup> Ferguson, *Relations*, p. 207 and pp. 216-217.

the Queen, the Court, her chief advisers, her English and Scottish ministers and parliaments, and political parties. The third is the question of timing, which involves a reassessment of the consensus view that the origins of the Union lay in the events of 1704.

## Sources

A wealth of primary sources comprising official records, political diaries, contemporary narratives, public discourse and private correspondence, is available for the purposes of considering these questions. Given the limitations inherent in this study, however, it has been necessary to be selective in their use, and to base the narrative framework and specialist detail on authoritative secondary sources.

The selection of primary sources has been based on two principal criteria. The first is their relevance for understanding the behaviour of individuals most closely involved with the Union. These principally comprise the Queen, the Duumvirs and the English Secretaries of State, Nottingham and Harley; Anne's Scottish High Commissioners, Queensberry, Tweeddale and Argyll; and Seafield, the Scottish Lord Chancellor for most of the period.<sup>88</sup> The second is the insight which they provide into key events in the evolution of the Union. These events comprise not only the abortive union initiatives of 1700 and 1702-1703 and the successful negotiations and ratification in 1706-1707, but also the milestones in the consensus Union timeline. These are the attempted settlement of the Scottish succession in 1704-1705, the failure of this initiative, and its political consequences. They also include the decision not to promote a Scottish abjuration Act in 1702-1703; the origins of the Alien Act; and the passage of the Scottish Act empowering the Queen to appoint commissioners to negotiate a treaty with England.

Printed sources which satisfy these criteria have the merit of accessibility, although potentially vulnerable to omission as a result of editorial judgement, and to dating and transcription errors.

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<sup>88</sup> See 'Who's Who', pp. 5-9.

They have therefore been used with caution. Moreover, some essential sources exist only in manuscript, for example Nottingham's and much of Godolphin's outgoing Scottish correspondence, and the covert correspondence between Hamilton and Godolphin using Belhaven as intermediary. Much of this material is held in Scotland, and unfortunately access to Scottish archives has been limited during 2020-2022 owing to Covid 19 restrictions.<sup>89</sup> It has also been impractical for other reasons to access some primary sources, for example Godolphin's correspondence with Halifax, held by Kansas University Library. In such cases it has been necessary to rely on citations in secondary sources, and to indicate that this has been done in the relevant footnote.

The different categories of primary source are each subject to important limitations. These are considered below:

### **Public and official records**

Official or quasi-official records and calendars such as the House of Lords and House of Commons Journals, the Acts of the Parliament of Scotland,<sup>90</sup> English Treasury and Board of Trade papers, have the merit of availability and apparent objectivity, but do not necessarily provide the best evidence for several reasons. Firstly, by their nature, they do not deal with discussions and debates that took place outside the public sphere. Parliament, for example, was rarely the place where decisions were made. It was where government measures were approved or rejected, redress sought, and protest made. The political decision-making process itself was rarely conducted in public, and was neither routinely nor formally recorded. Where records exist, such as the notes of meetings of the English Cabinet Council or Lords of the Committee meetings<sup>91</sup> kept by Secretaries of State Vernon,<sup>92</sup>

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<sup>89</sup> Some of Queensberry's correspondence is held at the British Library: BL, Add Ms 6420, 'Remarks'.

<sup>90</sup> 'APS': See 'Abbreviations', p. 3. This study has preferred to refer to *APS* instead of the recently digitized records created by the Scottish Parliament Project, on the basis that until very recently, historiographical references have been to *APS*.

<sup>91</sup> See J.H. Plumb, 'The Organization of the Cabinet in the Reign of Queen Anne', *TRHS*, 7 (1957), pp. 137-57 for the distinction between 'Cabinet Council' and 'Lords of the Committee'.

<sup>92</sup> BL, Add Ms 40781 and 4077.

Harley<sup>93</sup> and Sunderland,<sup>94</sup> they are of varying quality and relevance, according to the practice of the relevant Secretary. Indeed, contemporaries were much exercised by the lack of transparent decision making processes, as demonstrated by the provisions in the English Act of Settlement requiring Privy Council endorsement of major decisions, and concern over 'backstairs' access to the Queen.<sup>95</sup> The extent and importance of such intrigue was exaggerated, but clearly important decisions were taken in private meetings between the Queen and her advisers and at informal meetings of her principal ministers.<sup>96</sup> The practice is evident from Godolphin's habit of asking Harley to meet privately to discuss affairs before or after Cabinet meetings or debates in parliament, sometimes with Marlborough also present.<sup>97</sup> The evidence for such meetings is naturally very limited, but sometimes they can be deduced from correspondence, and sometimes they are referred to directly. For example, correspondence in the Marchmont papers evidences that the Queen recalled Tweeddale and the other 'Country' delegates after their formal audience in April 1704 to canvass their views on settling the Scottish succession.<sup>98</sup>

Secondly, official communications, such as speeches from the throne, royal letters to parliament and formal addresses and resolutions were confined by constitutional or public propriety of expression. As Riley acidly observed of the speeches made when the Union treaty was presented to the Queen, 'Human incompetence, deceit and a whole procession of plans gone awry ...were aspects of the union which neither Seafield nor anyone else would have dared to mention publicly in 1706.'<sup>99</sup> It is, however, easy to be cynical. The repeated insistence over a period of years in speeches and letters from Anne and her ministers and in preambles to Acts of Parliament on the benefits of union should

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<sup>93</sup> BL, Add Mss 70334-70337.

<sup>94</sup> BL, Add Ms 61498.

<sup>95</sup> Holmes, *British Politics*, pp. 210-216.

<sup>96</sup> H.L. Snyder, 'The Formation of Foreign and Domestic Policy in the reign of Queen Anne: Memorandum by Lord Chancellor Cowper of Conversation with Lord Treasurer Godolphin', *The Historical Journal*, 11 (1968), pp. 144-60.

<sup>97</sup> For example, *HMC Portland*, iv, Godolphin to Harley, 8 March 1702 p. 34.

<sup>98</sup> *Marchmont*, iii, p. 263. See 'Abbreviations', p. 4. For 'Country' politics, see p. 62, p. 67 and pp. 71-75 below.

<sup>99</sup> Riley, *Union*, p. 2.

not necessarily be dismissed as mere convention and a concession to what was considered proper to the occasion.

Further, formal records provide only an incomplete record of events and their apparent objectivity may obscure underlying realities. This is most obviously the case with parliamentary records and official minutes. English parliamentary debates were not supposed to be reported, as to do so would be a breach of parliamentary privilege. The formal records in the House of Lords and House of Commons journals are therefore sparse, although the Lords' journals records attendance, committee members and formal protests. While the *APS* includes some Scottish division lists, there is no corresponding record of divisions in the English House of Commons. Sometimes speeches were published, for example Haversham's annual 'bomb', Belhaven's celebrated speech opposing ratification of the Union in November 1706 and Fletcher's speeches in 1703. These need to be treated with care from an evidential perspective, however, since they were generally scripted and intended for publication as polemics.

As for official minutes, the 1706 minutes<sup>100</sup> of the union commissioners meetings are notoriously free from any record of debate and dissent. This has been taken to suggest that the negotiations were a sham, concealing either an English imposition of terms or a deal that had already been done.<sup>101</sup> The only recorded disagreement was over Scottish representation in the British parliament, which required a 'conference'. This was the contemporary procedure for airing and resolving differences, involving the presentation of the opposing cases by 'managers.' It was used, for example, during the 1702-1703 session of the English parliament in an attempt to settle the differences between the Lords and Commons over the Occasional Conformity Bill. The conference over Scottish representation was recorded by Clerk, and his account in fact suggests deep

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<sup>100</sup> *Minutes of the Proceedings of the Lords Commissioners for the Union of the Kingdoms of England and Scotland* (London, 1706).

<sup>101</sup> For example, *Lockhart*, pp. 210-213. See 'Abbreviations', p. 3.

disagreement between the two sides.<sup>102</sup> His personal journal of the commissioners' meetings adds little to the formal record, comprising mainly records of the formal papers exchanged by the two sides, although it does record initial Scottish deliberations over whether to press for consideration of a 'federal' union.<sup>103</sup>

Other evidential difficulties with official minutes are illustrated by those for the 1702-1703 union negotiations. There is reasonable correlation between the English minutes<sup>104</sup> and those of the Scots,<sup>105</sup> but their shortcomings are revealed by the notes prepared by Pringle, the Scottish commissioners' secretary.<sup>106</sup> These survive in papers collected by Sunderland in preparation for the 1706 negotiations and now held in the British Library.<sup>107</sup> These 'unofficial' minutes, while consistent with the official minutes, provide a wealth of context lacking in the official records. They show, for example, that effective agreement was reached on fundamental issues well before they were officially minuted, and afford context for Godolphin's often-quoted remarks about the American Plantations being the property of Englishmen. They provide details of disagreements between the Scottish commissioners at 'pre-meetings' and committee meetings over their objectives and negotiating tactics, as well as evidencing informal contacts between the Scottish and English commissioners. Significantly, they do not appear to have been studied in detail. Riley clearly examined them but appears to have misunderstood the Scottish proposals for an 'equivalent', with important implications for his assessment of the quality of the negotiations.<sup>108</sup>

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<sup>102</sup> Clerk, *History*, pp. 85-89. See 'Abbreviations', p. 3.

<sup>103</sup> NRS, GD 18/3132.

<sup>104</sup> TNA, PRO, Secretaries of State: Papers Scotland, Series II 1702-3, 54/ 2/ 1, 'A journal of the proceedings upon the union between the kingdoms of England and Scotland'.

<sup>105</sup> *APS*, xi, Appendix, pp. 145-161.

<sup>106</sup> He was also Scottish under-secretary of state.

<sup>107</sup> BL, Add Ms 61627.

<sup>108</sup> Riley, *Union*, pp. 180-181. See below, p. 215.



## Diaries

Surviving contemporary political diaries (with the exception of Cowper's) were rarely kept by individuals within decision-making circles. Cowper's diary<sup>109</sup> is in fact quite sparse and says nothing about the Union, but does illustrate the uneasy relationship between the Whig leaders and the Triumvirate after their breach with the High Tories. Other diaries are mostly useful for providing eyewitness accounts and informed comment on public events and opinions expressed by others. For example, Bishop Nicolson of Carlisle provides important descriptions of the House of Lords debates on the 'state of the nation regarding Scotland' at the end of 1704 which are important for understanding the genesis of the Alien Act. He also records conversations with individuals who played important parts in union negotiations, such as Hew Dalrymple and Somers.<sup>110</sup> Luttrell's calendar of events evidences contemporary gossip and matters which interested the English political nation that provide background and context.<sup>111</sup> In Scotland, Hume of Crossrigg's account of proceedings in the Scottish Privy Council and Parliament<sup>112</sup> offers a useful balance to narratives which give prominence to the roles of Hamilton and Fletcher in 1703-1704 while showing that Scottish unhappiness with the Regal Union extended to the Scottish ministries. These diaries of course reflect the political affiliations of their authors, Nicolson being a moderate Tory who shifted to the Whigs following a dispute with his High Tory Dean, Atterbury, while Crossrigg was a 'Revolutioner'. Lastly, they were not necessarily compiled contemporaneously. Nicolson, for example, appears to have written up his diary from notes taken at the time, as a result of which he confused the events of different days in December 1704.<sup>113</sup>

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<sup>109</sup> 'Cowper': See 'Abbreviations', p. 3.

<sup>110</sup> 'Nicolson': See 'Abbreviations', p. 4.

<sup>111</sup> 'Luttrell': See 'Abbreviations', p. 4.

<sup>112</sup> 'Crossrigg': See 'Abbreviations', p. 3.

<sup>113</sup> See the editorial discussion in the book, pp. 109-112.

### Contemporary narratives.

There are several contemporary or near-contemporary histories of Anne's reign, some of which are concerned wholly with the Union. The evidence provided in these accounts requires careful handling owing to the evident bias with which they were written. For instance, Defoe's *History*<sup>114</sup> reflects his role from late 1706 as one of the many agents employed by the English ministry to promote the Union in Scotland and to provide reliable intelligence on Scottish reactions. Although the presentation of facts is therefore selective and the approach polemical, Defoe's *History* also reflects his access to ministerial perspectives and official material, as well as his role on the committee established by the Scottish parliament to consider the trade and tax articles of the Treaty. Its appendices therefore contain a wealth of important information, including minutes of the 1669-70 and 1702-1703 union commissioners' meetings and the calculations of English and Scottish state revenues and debts considered by the Commissioners in 1706. The text includes minutes of the 1706 Commissioners' meetings as well as the Treaty Articles themselves, and minutes of the ratification proceedings of the Scottish parliament. Caution is nevertheless required in handling this information, since it is sometimes abridged and includes Defoe's own gloss, for example, in his presentation of the minutes of the 1702-1703 negotiations. It is also significant that Defoe was writing after the split between the Duumvirs and the High Tories, and that he was a Whig. While writing in support of the Queen's government, he had no time for the Tories.

Similarly, Lockhart's well-known *Memoir*<sup>115</sup> is very evidently written from a fiercely Jacobite perspective and is passionately opposed to the Union. Whatley and Patrick have argued convincingly that although this bias has been routinely acknowledged, his account of proceedings and characterization of individuals and their motives has nevertheless been broadly accepted without giving due weight to alternative contemporary perspectives.<sup>116</sup> These alternative sources include

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<sup>114</sup> See 'Abbreviations', p. 3.

<sup>115</sup> 'Lockhart': see 'Abbreviations', p. 3.

<sup>116</sup> Whatley and Patrick, 'Contesting Interpretations of the Union of 1707: the uses and abuses of George Lockhart of Carnwath's Memoirs,' *Journal of Scottish Historical Studies*, 27 (2007), pp. 24-47.

Clerk's *Memoirs*,<sup>117</sup> his *History* (explicitly written to correct Lockhart's account), his annotated copy of Lockhart's *Memoires*,<sup>118</sup> and his '*Testamentary Memorial*', written long afterwards in 1744.<sup>119</sup> Clerk's views have been discounted on the grounds that he was a client of Queensberry, and one of the Union commissioners. Further, he based parts of his account on Defoe's *History* and indeed there seems to have been some collaboration between them.<sup>120</sup> Nevertheless, Clerk's is the only account of the 1706 conference over Scottish representation in the British parliament, giving the arguments deployed by both sides.<sup>121</sup> His relation of the false note struck by Harley's jocular approach is consistent with other accounts of Harley's personal style, and lends credibility to his account.<sup>122</sup>

Other narratives, such as Bishop Burnet's *History*, and Boyer's *Annals* (and his later *History*), are also written from a Whig perspective.<sup>123</sup> Oldmixon's *History*,<sup>124</sup> written much later during the Whig supremacy, has a decidedly Whig bias. These sources celebrate the Union as a Whig achievement, a perspective facilitated by Godolphin's death in 1711 and the Hanoverian succession in 1714. Tory accounts written after 1708, such as Swift's, have either Harleyite or High Tory sympathies and are therefore prejudiced not only against the Whigs but against the Duumvirs. Importantly, there is no account of 1702-1707 written from the perspective of the Queen and the Duumvirs.

### Public discourse

It is a commonplace that the scale of public discourse, fuelled in England by the lapse of the Licensing Act and by Triennial elections, was very extensive. Bowie has also shown that a vigorous

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<sup>117</sup> J.M. Gray (ed.) *Memoires of the Life of Sir John Clerk of Penicuik...extracted by himself from his own journals 1676-1755* (Edinburgh, 1892).

<sup>118</sup> NRS, GD 18/6080.

<sup>119</sup> NRS, GD 3243/1 and 2. Printed as an appendix in Duncan's edition of Clerk's *History*.

<sup>120</sup> Clerk, *History*, p. 83. See editorial comments, p. 20 and fn. 5, for the collaboration; also P.R. Backscheider, 'Defoe and the Clerks of Penicuik', *Modern Philology*, 84 (1987), pp. 372-381.

<sup>121</sup> Clerk, *History*, pp. 85-89.

<sup>122</sup> F. Harris, *The General in Winter: the Marlborough Godolphin Friendship and the Reign of Queen Anne* (Oxford, 2017), p. 190.

<sup>123</sup> 'Burnet, *History*'; 'Boyer, *Annals*'; 'Boyer, *History*'. See 'Abbreviations', p. 3.

<sup>124</sup> J. Oldmixon, *The History of England during the reigns of King William & Queen Mary, Queen Anne*.

debate was carried on in parts of Scotland over the Africa Company and the constitutional and trading relationship with England. However, while the manipulation and financing of public discourse in England by politicians has attracted scholarly interest,<sup>125</sup> Scottish public discourse has not received the same scrutiny. Indeed, there has perhaps been a predisposition to accept anti-English or anti-Union polemics as uniquely genuine expressions of public opinion and to play down the extent to which it was organized and financed by opposition politicians and geopolitical competitors. The London-based presbyterian polemicist George Ridpath, for example, was closely associated with Tweeddale's associates and was funded by them from 1699 till as late as 1706.<sup>126</sup> As well as pamphlets and newspapers, he produced a highly partisan account of the 1703 session of the Scottish parliament which gives particular prominence to Fletcher's role and to his radical agenda.<sup>127</sup>

The interpretation and comment offered by public discourse, however polemical and potentially unreliable as to facts, nevertheless provide important context. A detailed review of this material is, of course, outside the scope of this study. However, some of the most well-known tracts from both the 'Country' and ministerial perspectives<sup>128</sup> have been examined in order to assess contemporary opinions which have been widely accepted in Union historiography. These include Scottish attitudes to aligning the Scottish succession with that of England; to participation in the War of the Spanish Succession; to the constitutional and commercial relationship with England; and to allegations of 'English Influence'. Tracts which evidence *English* perceptions of the potential economic, military and religious threat posed by Scotland have also been examined,<sup>129</sup> as well as those (such as the *Memorial of the Church of England*) which evidence the depth of the breach between the Duumvirs and the Tory leadership after 1704. Details are provided in the Bibliography.<sup>130</sup>

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<sup>125</sup> For example, J.A. Downie, *Robert Harley and the Press* (Cambridge, 1979).

<sup>126</sup> *Jerviswood*, Johnstone to Baillie, 6 April 1706 pp. 151-152; Johnstone to Baillie, 3 February 1705, pp. 42-43.

<sup>127</sup> '[Ridpath], *Proceedings*': see 'Abbreviations', p. 4.

<sup>128</sup> Especially those of Ridpath, Hodges, Pitmidden and Tarbat,

<sup>129</sup> For example, by Drake and Atwood.

<sup>130</sup> Below, pp. 279-280.

## Correspondence

Decisions were not of course made by letter, although some collections include formal or quasi-formal instructions. Correspondence may, however, evidence meetings where decisions were made or discussed. For example, Queensberry described the Queen's and Duumvirs' thinking on Scottish policy in 1703 in a letter to Seafield.<sup>131</sup> Correspondence between decision-makers may also shed light on their motives available nowhere else. It sometimes encloses detailed reports or memoranda (described by contemporaries as 'memorials') which variously provide quasi-official accounts of parliamentary proceedings, 'schemes' for the management of parliament, or thinking on strategy and tactics.

There are, of course, important limits to the evidential value of private correspondence. At its most basic, the dating or attribution of individual documents may be unclear, and indeed there are some well-known errors in printed collections. For example, in *HMC Laing*, both Queensberry's memorial of 28 May 1703 and the Lord Advocate's of August 1706 are misattributed to Seafield.<sup>132</sup>

Another fundamental limitation is that collections of correspondence are never comprehensive, containing only either what was acquired or has survived. Perhaps the most significant examples of lost correspondence relevant to this study are Godolphin's correspondence with Marlborough (because Marlborough assiduously destroyed most of Godolphin's letters) and Somers' correspondence, mostly lost to fire at the end of the 18<sup>th</sup> century. Further, most collections only contain one side of the correspondence, usually incoming and not outgoing letters. The two sides of the correspondence are often spread between different collections so that none is complete, presenting obvious problems of context and interpretation. This is especially true of correspondence relating to the Union: letters from Scots to English politicians, except where copies were retained, are often in English collections whereas letters from English to Scottish politicians are in Scottish

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<sup>131</sup> NRS, GD 248/571/2 f. 5.

<sup>132</sup> *HMC Laing*, ii, p. 13, p. 125.

collections. Finally, memorials are frequently detached from their covering letters, and may appear in different collections, or be missing altogether.

As well as such quantitative limitations, there are important qualitative issues. Politicians' correspondence is inherently likely to focus on short-term political expedients rather than their long-term objectives. Further, because correspondence was routinely opened<sup>133</sup> the use of ciphers was widespread and elaborate arrangements were made by correspondents to frustrate interception and easy understanding. Consequently, their meaning is frequently elliptical. Despite these precautions, correspondents were careful what they committed to paper. Scottish politicians were particularly wary of being found to be in unofficial correspondence with English politicians given national concern over 'English influence',<sup>134</sup> so that Seafield was candid about not putting into writing what he would say to Godolphin face-to-face.<sup>135</sup> Circumspection was also required in case the recipient forwarded information to colleagues. For example, Seafield was concerned that Godolphin should not disclose to Argyll and Queensberry his unofficial correspondence with the *Squadron Volante*.<sup>136</sup>

The principal collections to which this study has referred merit some specific observations. These are discussed below.

Curtis Brown's compilation<sup>137</sup> of extracts from Anne's state letters and instructions, her letters to Godolphin held in the British Library<sup>138</sup> and her private correspondence, makes some dating and editorial choices which have been challenged by her biographer, Gregg. In these instances, this study has followed Gregg's dating and text.

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<sup>133</sup> For example, *HMC Bath*, i, p. 57 Godolphin to Harley, ordering the interception of Hamilton's mail.

<sup>134</sup> 'LRS' (See 'Abbreviations', p. 4), Seafield to Godolphin, 24 May 1705, p. 45; and Seafield to Godolphin, 2 September 1705, p. 83 for Roxburgh's forbidding Seafield to mention his support for a treaty in writing.

<sup>135</sup> For example, *LRS*, Seafield to Godolphin, 6 October 1705, p. 92

<sup>136</sup> *LRS*, Seafield to Godolphin 5 August 1705, p. 70; Seafield to Godolphin 26 August 1705, p. 76; and most explicitly, Seafield to Godolphin 2 September 1705, p. 83.

<sup>137</sup> 'Curtis Brown, *Letters*': see 'Abbreviations', p. 3.

<sup>138</sup> BL, Add Ms 28070.

As Anne's chief domestic adviser until 1710, Godolphin's correspondence should provide first-class evidence of government objectives and thinking. Unfortunately, his surviving correspondence is extremely voluminous, reflecting his involvement in virtually every sphere of government in all three Stuart kingdoms and his astonishing industry. Scottish affairs are often dealt with by way of a paragraph in letters addressing other subjects, and in both printed and manuscript collections, the incoming and outgoing letters are rarely matched, so the context of a letter may easily be lost. Although much of his *incoming* correspondence regarding Scottish affairs is held at the British Library, his outgoing letters are scattered throughout various different collections, often in manuscript form only, held in the National Records of Scotland, the National Library of Scotland, and in private archives.

Some of Godolphin's correspondence with his close friend, Marlborough, and with Marlborough's wife Sarah, Lady Marlborough, is printed in *MGC*,<sup>139</sup> although because Marlborough routinely destroyed Godolphin's letters, it is by no means complete. The surviving letters relate chiefly to diplomatic and military business, but sometimes include passages which provide important insights into the Duumvirs' relations with the Queen and leading English and Scottish politicians.

Godolphin's letters from Seafield are vitally important since Seafield rapidly became his and the Queen's most trusted Scottish adviser. Much of it is printed in *LRS*, a selection from the very large (but still incomplete) manuscript collection of Godolphin's domestic correspondence at the British Library, which also contains letters from (*inter alia*) Harley and Argyll.<sup>140</sup> It does not, however, contain any of Seafield's letters to Godolphin in other British Library collections, which have therefore been examined in manuscript.<sup>141</sup> Some of Seafield's letters to Godolphin and some from Queensberry and Tweeddale, along with 'memorials' pertinent to the Union, are also found in *HMC*

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<sup>139</sup> See 'Abbreviations', p. 4.

<sup>140</sup> BL, Add Ms 28055.

<sup>141</sup> BL, Add Ms 34180.

*Laing*, volume ii. Most of Argyll's letters to Godolphin, which are important for the dismissal of Tweeddale's ministry and the 1705 session of the Scottish parliament, are printed in *ISL*, volume i.<sup>142</sup>

Godolphin's letters to Scottish politicians are rarely found in printed collections although extracts from several important letters are included in *HMC Seafield*<sup>143</sup> and *HMC Atholl*. The most relevant manuscript collections for this study are in the Seafield Papers held by the National Records of Scotland<sup>144</sup> and National Library of Scotland.<sup>145</sup> There are substantial breaks in the correspondence between Godolphin and Scottish politicians which are largely explained by the Scots' presence in London. This was usually during the autumn and winter when Scottish ministers came to London to discuss Scottish affairs and agree on a 'scheme' for managing the Scottish parliament with the Queen and her advisers. This was also the time when Marlborough returned from campaign and when the English parliament habitually sat and considered the funding required for the next year's campaign. It was therefore a period of intense political activity where important decisions were made, but for which the evidence is limited. However, some of Godolphin's correspondence with Harley on domestic matters, incoming and outgoing, is printed in the HMC reports on the papers of the Marquess of Bath and of the Duke of Portland.

Nottingham was extensively involved in the 1702-1703 union initiative as English Northern Secretary of State in 1702-1704. There is no printed collection of his correspondence during this time (except for incoming correspondence relating to Irish affairs and the 'Representation' of 1703.)<sup>146</sup> It has therefore been necessary to examine the manuscript collections in the British Library for his Scottish correspondence.<sup>147</sup>

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<sup>142</sup> See 'Abbreviations', p. 3.

<sup>143</sup> See 'Abbreviations', p. 4.

<sup>144</sup> NRS, GD 248/ 559/36A; GD 248/559/37; GD 248/571/2; GD 248/572/7 and GD 248 /572/7/4: the Seafield correspondence has recently been re-catalogued, so that Riley's citations no longer serve.

<sup>145</sup> Principally, NLS, MS 7021, MS 7102, MS 7104 and MS 7121 for his correspondence with Tweeddale.

<sup>146</sup> In 'CSPD': see 'Abbreviations', p. 3.

<sup>147</sup> BL, Add Mss 29588, 29589, 29595.



The correspondence of George Baillie of Jerviswood<sup>148</sup> chiefly comprises correspondence between the New Party leaders Roxburgh and Baillie and their London agent James ‘Secretary’ Johnstone.<sup>149</sup> It is an important and well-used source which sheds light on the motivation of Scottish politicians formerly in opposition whose support for the Union was important, if not decisive, for its ratification. It also includes Roxburgh’s and Johnstone’s eyewitness accounts of the ‘state of the nation’ debates over the Scottish ‘four Acts’<sup>150</sup> in the 1704-1705 session of the English parliament. As the New Party had advised the Queen to assent to the Act of Security and Wool Act, and Roxburgh had been prominent in drafting the Act of Security in 1703, its leaders were well placed to comment on the intent of these measures and the English reaction to them. *Jerviswood* also includes political intelligence from Johnstone both before his appointment to office and after his dismissal. Johnstone’s correspondence needs to be treated cautiously, however, because Godolphin (and others) used him as a conduit for carefully chosen remarks for the purposes of influencing the behaviour of the New Party, and also because it is of varying quality, comprising gossip and personal opinion, frequently expressed elliptically.

The correspondence of William Carstares<sup>151</sup> is an important source for William’s reign, when Carstares served as one of William’s most trusted advisers on Scottish affairs.<sup>152</sup> His fall from political favour in Anne’s reign has been exaggerated: as a leading presbyterian he was naturally not involved in the ‘Cavalier Alliance’ of 1702-1703, and his part in the dismissal of Johnstone and Tweeddale’s father from office in 1696, meant that he was no friend to the New Party. However, he continued to exercise considerable influence amongst presbyterians in support of Queensberry and Argyll, for

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<sup>148</sup> ‘*Jerviswood*’: see ‘Abbreviations’, p. 3.

<sup>149</sup> See ‘Who’s Who’, p. 8.

<sup>150</sup> The Act of Security, the Act anent Peace and War, the Wine Act and the Wool Act.

<sup>151</sup> ‘CSP’: see ‘Abbreviations’, p. 3.

<sup>152</sup> Riley, *King William and the Scottish Politicians* (Edinburgh, 1979), pp. 129-31, and p. 151; D. Onnekink, ‘The Earl of Portland and Scotland (1689-1699): a Re-evaluation of Williamite Policy,’ *SHR*, 85 (2006), pp. 231-249.

example helping to moderate the reaction of the Commission of the General Assembly to the Union Treaty.<sup>153</sup> Amongst his important English correspondents was Harley.

The correspondence of Queensberry's lieutenant and Scottish Secretary of State, the Earl of Mar, evidences the tactics used to ensure the ratification of the Treaty by the Scottish parliament. It was used by Ferguson to support his argument that the Union was essentially a 'political job.' It also sheds light on the role played by Queensberry's 'friends' in sabotaging the attempt to settle the Scottish succession in 1704, on the conduct of union negotiations, and on the ratification process.

Less well-known are the third volume of the Marchmont papers, and the HMC reports on the Marchmont and Johnstone papers.<sup>154</sup> These shed light on Scottish affairs at the end of William's reign and the beginning of Anne's when Marchmont was Scottish Chancellor. They also evidence the relationship between the Scottish Revolutioners and their English Whig counterparts, notably Somers, and the role that the Junto played in making the Union possible.

Volumes ii and iii of the Vernon correspondence<sup>155</sup> provide useful English perspectives on Scottish affairs at the end of William's reign, when Vernon was one of the Secretaries of State and provided the absent Whig magnate, the Duke of Shrewsbury, with political intelligence. After Vernon's dismissal in 1702, they provide another eyewitness account of the attempt to censure Godolphin over the Act of Security. They have been used with appropriate caution owing to their well-known limitations.<sup>156</sup>

### The structure of this study

The consideration, using these sources, of the three linked questions posed above is organized as follows.

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<sup>153</sup> Stephen, *Scottish Presbyterians*, pp. 52-53, p. 61, p. 100, and pp. 104-105.

<sup>154</sup> Respectively, '*Marchmont*', '*HMC Marchmont*', and '*HMC Johnstone*': see '*Abbreviations*', p. 4.

<sup>155</sup> '*Vernon*': see '*Abbreviations*', p. 4.

<sup>156</sup> D.H. Somerville, 'The Dates in the Vernon Correspondence,' *EHR*, 48 (1933), pp. 624-630.

The assessment of the nature of the Union is addressed in Chapters 2 and 3. Chapter 2, 'The Union of the Crowns', examines the pre-Union relationship between Scotland and England, and Chapter 3, 'What the Union did (and what it did not)', considers the changes which the Union made to it. They conclude that the Union was a *modification* of an *existing* union controlled by Court groups comprising the monarchs and their closest advisers, in which Scotland had at best only limited independence.

The question of agency is addressed in Chapter 4, 'The Court Group of Queen Anne', and Chapter 5 'The Court Group and the English Parliament'. These examine the relationship between the Cabinet, the Court, the Queen and the Triumvirate, and the part played by the English parliament and parties in the origins of the Union. They conclude that agency for the Union lay with a Court group comprising Anne and the Triumvirate, and not with the English parliament or the Whigs.

The timing of the commitment to Union is considered in Chapter 6, 'The Origins of Union Policy', and Chapter 7, 'The Continuity of Court Group Policy'. Chapter 6 clarifies fundamental post-Revolution Court group Scottish objectives, and describes how the geopolitical and domestic impact of the Darien episode was responsible for demonstrating the shortcomings of the Regal Union framework. Chapter 7 argues that there was continuity of Court group policy after the failure of the union initiative of 1702-1703 so that the attempt to settle the Scottish succession in 1704 did not mean that the union policy had been abandoned. Accordingly, the origins of the Union did not lie in the events of 1704, but in those of 1699-1700.

On the basis of these conclusions, Chapter 8, 'Made in Scotland? The Court Group and the Scottish Parliament', reassesses those narratives which interpret the Union as an English response to Scottish pressure for reform of the Regal Union. It concludes that, ironically, this pressure ultimately facilitated the realization of Court group union policy.

The 'Conclusion' draws together these assessments. It concludes that the Union was the outcome of deliberate Court group policy in the reigns of both William and Anne which was consistently pursued

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from 1700 and that this policy was primarily intended to enhance British geopolitical competitiveness, whose shortcomings had been revealed by the Darien affair.

## Chapter 2 The Union of the Crowns

### Introduction

This chapter examines the 'Union of the Crowns', or 'Regal Union', for the purposes of clarifying exactly what the Union changed. In order to avoid preconceptions associated with the term 'state,' it employs the neutral term 'polity' to describe contemporary political associations. The diplomatic and military relationships between them are described as 'geopolitical.'

It begins with an overview of the Regal Union on Anne's accession, followed by a discussion of the European 'composite monarchy' context. It then examines its origins in the Restoration Settlement of 1660-1669 and assesses the impact of the 'Glorious Revolution' of 1688-1689, before discussing how it functioned as a polity. It concludes that, notwithstanding tensions created by the Revolution, Union historiography has underrated the political coherence conferred by Court groups comprising the monarchs and their closest advisers on the Regal Union. Consequently, both Scottish 'independency' within the Regal Union and the extent to which such Court groups can be conflated with 'England' have been overstated. It follows that the Union should not be interpreted within a bilateral framework of Anglo-Scottish conflict whose outcome was the loss of Scottish sovereignty, but rather in the context of an existing polity in which Court groups exercised significant political power in their own right, independent of the institutions of either kingdom.

### Overview

Anne assented to the acts of the English and Scottish parliaments ratifying the Union Treaty as Queen of both kingdoms. She had appointed both the English and Scottish ministers who had initiated this legislation and the commissioners who had negotiated the Treaty. Before the Union, there was, therefore, a 'British monarchy', although that epithet was not used by contemporaries, who referred to the 'Union of the Crowns', or in certain contexts to 'Britain' or 'Great Britain'. It

comprised the two crowns of Scotland and England (to which the title of King of Ireland was attached)<sup>157</sup> the Channel Islands and the Isle of Man, as well as colonies in North America and the Caribbean (the 'Plantations'). There were three principal legislatures, administrations, local government systems and tax systems, those of England, Scotland and Ireland; three separate established churches (one Presbyterian, two Episcopalian) each with its own representative assemblies (Convocation in the Churches of England and Ireland, and the General Assembly in Scotland); and two legal systems, English and Scottish (English common law ran in Ireland). Commercially, there were three trading systems: England and its Plantations, regulated by a mercantile code collectively referred to as the 'Navigation Acts'; Ireland; and Scotland. Although a minority within the British monarchy, Roman Catholics were the majority in Ireland. In all three kingdoms there were substantial Protestant communities outside the established churches.

While Scotland had a separate, 'imperial' crown,<sup>158</sup> there was no separate Irish crown. Although the Protestant Convention which met in Dublin in 1660 asserted Irish legislative autonomy, this was not achieved until 1782. The English parliament claimed (and exercised) the right to legislate directly for Ireland, while under the 1494 'Poynings Law', no bill originating in Ireland could be brought before the Irish parliament without approval by the English Privy Council. As the English commissioners told the Scottish commissioners in the negotiations for a commercial union in 1668:

Ireland...is an Appendix of the Crowne of England, and Lawes made in the Parliament of England do binde them and no law can be enacted by the parliament of Ireland but what passeth the Privy Council of England...by which it is absolutely in our power when we grant privileges to them to compel and keep them up to the restrictions and limitacions of them, *all which is quite otherwise in relacon to Scotland.*<sup>159</sup>

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<sup>157</sup> Parliament of Ireland, 33 Henry VIII c. 1, section 1.

<sup>158</sup> Ferguson, 'Imperial Crowns'.

<sup>159</sup> Keith, *Commercial Relations*, pp. 92-93. Emphasis added.

A broadly similar relationship existed between England and its Plantations. Each colony, whether charter, proprietorial or royal, had its own representative institutions and administrations, supervised with varying degrees of effectiveness by royal representatives or governors, and at least theoretically subject ultimately to legislation passed by the English parliament.

Of the three kingdoms, England was unquestionably the wealthiest. To illustrate the relative prosperity of England and Scotland, it is instructive to consider tax revenues. Scotland in the 1690s generated no more than £110,000 *per annum*, whereas in the period 1696-1700, England's cumulative revenues came to £24 million.<sup>160</sup> This disparity was abundantly clear to contemporaries. The Scottish commissioners in the 1702-1703 union negotiations dwelt at length on the contrast between English wealth and Scottish poverty when resisting English demands for a common excise.<sup>161</sup> In the 1706 Union negotiations, it was noted that English customs and excises brought in £2,289,161 annually, whereas the Scottish equivalent was £65,000.<sup>162</sup> England was also the most populous, having at the end of the 17<sup>th</sup> century some 5.5 million inhabitants, compared with Scotland's 1 million and Ireland's 2.2 million.<sup>163</sup>

## Composite states

The absence of a single legislature, administration, legal system, customs union and church supports narratives in which the Union is interpreted as a transformative step in the evolution of a British 'state'. For example, Levack described the Union of the Crowns after James VI of Scotland became King of England in 1603 as 'very limited in scope,' involving 'mere' personal and dynastic union. It was vulnerable to dynastic failure and did not unite the kingdoms' laws, political institutions or churches. It 'did not therefore create a united kingdom, a united British state or single British nation'

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<sup>160</sup> Whatley, *Scots & Union*, p. 139, citing J.S. Wheeler, *Making of a World Power* (Stroud, 1990) pp. 169-70 and 211-15.

<sup>161</sup> For example, BL, Add Ms 61627, Lord President's memorial, pp. 88- 105.

<sup>162</sup> Defoe, *History*, pp. 123-124.

<sup>163</sup> Holmes, *Great Power* pp. 403-408, Tables B1-B4. 'Kingdom of England' includes Wales.

nor unite them into 'one body politic.'<sup>164</sup> Similarly, Holmes, writing of the restored monarchy of 1660 observed that Britain was 'a term that could only be used with some artificiality'.<sup>165</sup> The step-change represented by the Union in these narratives is heightened by the observation that the differences which frustrated the ambitions of James VI & I for 'perfect union' in 1604 increased rather than narrowed during the 17<sup>th</sup> century. These included the divergent paths taken by the Scottish and English churches and economies, differences in social structure,<sup>166</sup> and the evolution of Scottish law.<sup>167</sup>

Such narratives reflect modern 'state formation' perspectives which broadly associate political coherence with bureaucratic centralization and the institutional and social integration aspired to by 19<sup>th</sup> and 20<sup>th</sup> century nation states. They are usually linked with concepts of 'sovereignty' that is, 'the concentration of authority in an *impersonal* sovereign body and... the consolidation of that authority over territories and their inhabitants' as one of 'the essential attributes of statehood',<sup>168</sup> the development of national identity, and clear-cut distinctions between 'executive' and 'legislative' power.

However, comparison of the Union of the Crowns with other European polities reveals that the absence of such standards of integration was in fact entirely typical. Indeed, it is a commonplace that 17<sup>th</sup> century Europe comprised a number of 'composite monarchies'<sup>169</sup> or competing 'empires' where centres of political power exercised 'imperial' control over less powerful 'provinces'.<sup>170</sup>

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<sup>164</sup> B. Levack, *The Formation of the British State: England, Scotland and the Union 1603-1707* (Oxford, 1987), p.1.

<sup>165</sup> Holmes, *Great Power*, p. 18.

<sup>166</sup> Levack, *Formation*, p. 204; M. Goldie, 'Divergence and Union: Scotland and England 1660-1707', in B. Bradshaw and J. Morrill (eds.), *The British Problem c.1534-1707: State Formation in the Atlantic Archipelago* (Basingstoke, 1996), pp. 220-245.

<sup>167</sup> J.W. Cairns, 'Scottish Law, Scottish Lawyers and the Status of the Union', in *Union for Empire*, pp. 243-268; Levack, *Formation*, pp. 68-101.

<sup>168</sup> J. Robertson, 'Union, State and Empire: The Britain of 1707 in its European setting', in Stone, (ed.) *An Imperial State at War: Britain 1689-1815* (London, 1993), p. 247. Emphasis added.

<sup>169</sup> J.H. Elliot, 'A Europe of Composite Monarchies', *Past and Present*, 137 (1992), pp. 48-71; J. Robertson, 'Empire and Union: Two Concepts of the Early Modern European Political Order', in *Union for Empire*, pp. 4-6.

<sup>170</sup> J. Robertson, 'Union State and Empire', pp. 227- 229.



Although non-monarchical exceptions existed, notably the Dutch Republic, these polities too exhibited limited political, legal, economic and confessional integration, circumscribed common institutions and weak common identities.

Most possessed regional estates or similar historic representative institutions with strong local identities which claimed a right to participate to varying degrees in legislative and tax-raising processes, and whose conflicting interests required active management to achieve coherent policy. Most possessed no common codes of law or systems of taxation, and had multiple barriers to free trade within their boundaries.<sup>171</sup> This was very obviously the case with the Austrian and Spanish Habsburg Monarchies where, as in Britain, the monarch had multiple royal titles.<sup>172</sup> Even in France, where Louis XIV (whose formal title was King of France *and* Navarre) claimed the sole right to legislate, provincial estates with legislating, tax raising and tax collecting rights survived in the *pays d'état* (Languedoc, Brittany, Burgundy and other peripheral or recently conquered territories). Roman law applied in *le midi*, and customary law elsewhere. There was no unified system for either the collection or assessment of the *gabelle* (salt tax) or the *taille* (individual tax). Despite Louis's claim to absolute authority, France was in fact, like the Spanish and Austrian Monarchies, a collection of provinces acquired by inheritance and conquest on which the monarch had superimposed an administrative framework of varying effectiveness.<sup>173</sup>

Furthermore, notwithstanding contemporary political theory, confessional unity within these polities was far from usual. There were large Protestant communities in France (even after the revocation of the Edict of Nantes in 1685) and in Hungary, and attempts by Louis XIV and Leopold I to impose Roman Catholicism throughout their dominions provoked serious rebellions. The Empire was divided

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<sup>171</sup> J. Miller (ed.) *Absolutism in Europe* (London, 1990), pp. 1-5; and H.G. Koenigsberger, 'Composite States, Representative Institutions and the American Revolution', *Historical Research*, 62 (1989), pp. 135-142

<sup>172</sup> For example, the Spanish monarch was (*inter alia*) King of Castille, King of Aragon, King of Naples, Sicily and Sardinia, Duke of Milan and Count of Flanders.

<sup>173</sup> E.N. Williams, *The Ancien Regime: Government and Society in the Major States 1648-1789* (London, 1970), pp. 162-171; D. Hayton, J. Kelly, and J. Bergin, *The Eighteenth-Century Composite State: Representative Institutions in Ireland and Europe, 1689-1800* (Basingstoke, 2010), pp. 245-247.

between a largely Protestant North and Roman Catholic South, while in the majority Protestant Dutch Republic, the Generality Lands were largely Roman Catholic.

Within these composite polities it was also common for one component to dominate the others politically and economically, just as England dominated the Union of the Crowns. Castile dominated the Spanish Monarchy, Holland the Dutch Republic and the *Erblande* (Hereditary Lands) the Austrian Monarchy. In monarchical polities, this was usually the location of the monarch and their entourage, or 'Court'. As a result, references to the polity were often to the dominant component, as in 'England', 'Holland', and Austria'. Notwithstanding the absence of modern standards of integration, these polities possessed a geopolitical coherence which enabled them to participate in large scale wars. Their degree of integration and the mechanics of co-ordination varied considerably, reflecting their different circumstances and historical origins, but was generally provided by the institution of monarchy.

### Coherence and monarchy

Modern perspectives which emphasize the lack of coherence in the Union of the Crowns overlook the fact that the most important institution in mainstream 17<sup>th</sup> and 18<sup>th</sup> century political thinking was *monarchy*. As Roger Mason observed:

the idea that Seventeenth Century Scotland possessed independent sovereignty was far from axiomatic. It was certainly not a view to which James VI or any of his royal successors would have subscribed. For him and for many of his loyal Scottish subjects, sovereignty was vested in the person of the king...<sup>174</sup>

Most contemporary polities were based not on nations, legal systems or representative institutions, and still less on confessions or economies, but on dynasties. Even the confederal Dutch Republic had a strong connection with the House of Orange, and reverted to quasi-monarchical institutions in

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<sup>174</sup> R.A. Mason, 'Debating Britain in Seventeenth Century Scotland: Multiple Monarchy and Scottish Sovereignty', *Journal of Scottish Historical Studies*, 35 (2015), p. 2.

1672, when the office of *Stadhouder* was revived and William III of Orange appointed captain-general and admiral for life in response to Louis XIV's invasion.<sup>175</sup> The primary force behind the creation of a common interest throughout monarchical polities was that of loyalty and service to the person of the monarch, and not to an impersonal sovereign. The actual extent of monarchical power varied according to the determination of individual monarchs to impose their will and the negotiation of support from elite groups.<sup>176</sup> Its exercise was therefore intensely *personal*. Sometimes professional bureaucracies or institutions such as a council of state emerged which provided continuity and reduced the impact of royal capacity, for example, in Spain.<sup>177</sup> However, like Louis XIV's *intendants* and *Conseil d'en haut*, these were *monarchical* institutions created to enhance the exercise of monarchical power, and not expressions of independent, impersonal sovereignty.

The personal nature of political power was reflected in the importance of trusted advisers (often labelled 'favourites' by those outside the royal confidence) and of the monarch's 'Court'. Most prominent individuals were accompanied by such an entourage, comprising household functionaries, friends and supplicants, whose presence testified to the individual's influence and importance. In monarchical polities, the monarch's Court was the apogee of political power. It provided staging for political and judicial functions, accommodation for Officers of State and bureaucrats, a forum for the exchange of political and diplomatic information, a channel for communication between monarchs and their closest advisers, and a visible projection of political power through cultural and social leadership. This was reflected in the widespread use of the word 'Court' to denote as well as an institution and physical location, a polity's highest level of political authority.<sup>178</sup> This usage was particularly prevalent amongst those whose political careers began in the seventeenth century and persisted as useful shorthand in diplomatic circles. In this sense, it comprised the monarch (the ultimate source of political power and office) and their closest or most

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<sup>175</sup> Williams, *Ancien Regime*, pp. 66-68.

<sup>176</sup> J. Miller, 'The Potential for "Absolutism" in later Stuart England', *History*, 69 (1984), p. 193.

<sup>177</sup> C. Storrs, *The Resilience of the Spanish Monarchy 1665-1700* (Oxford, 2006), pp. 182-189.

<sup>178</sup> For example, Burnet, *History*, v, pp. 512-513; Luttrell, v, p. 41.

favoured and trusted advisers, although the widespread convention that the monarch could do no wrong and the fictions of 'evil advisers' and 'factions' meant that in general only the advisers could be held accountable.<sup>179</sup> In this study, in order to avoid confusion with 'Court' in the sense of an institution or physical location, the monarch and their closest advisers, or 'inner circle' enjoying royal confidence, are together referred to as a 'Court group'.

Of course, alternative centres of political power existed, reflecting the strength of local representative institutions and the practical limitations of 17<sup>th</sup> and 18<sup>th</sup> century central bureaucracies. However, the diffusion of political power was not necessarily a threat to monarchical authority. For example, the resilience of the Spanish Monarchy under Carlos II may be partly attributable to better co-operation with its non-Castilian elements,<sup>180</sup> while Louis XIV and the surviving estates in France similarly found co-operation mutually beneficial.<sup>181</sup>

## The Restoration Settlement

The internal organization of these composite polities was not static and evolved in response to domestic and external pressures. In this respect too, the Union of the Crowns was entirely typical. Although it was a commonplace in 1700 that it had endured for 100 years,<sup>182</sup> this was not in fact the case. Despite systematic attempts in England and Scotland to consign the mid-century Civil Wars and Interregnum to oblivion and present the Restoration as the re-instatement of legitimate government,<sup>183</sup> some twenty years of violent political, religious and social turmoil could not be legislated away. Accordingly, although government by King, Lords and Commons in England and Ireland's status as an English dependency were restored, the Scottish Covenanter constitution swept away, and episcopal churches re-established in each kingdom, the Union of the Crowns which

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<sup>179</sup> For example, William's Hague Declaration, 10 October (NS) 1688, discussed in T. Claydon, 'William II's Declaration of Reasons and the Glorious Revolution', *The Historical Journal*, 39 (1996) pp. 87-108.

<sup>180</sup> Storrs, *Resilience*, pp. 229-231.

<sup>181</sup> Miller, 'Potential for Absolutism', pp. 200-201.

<sup>182</sup> For example, William's reply to the Lords' Darien address, 12 February 1700, *LJ*, xvi, p. 514.

<sup>183</sup> Exemplified by the English 'Act of Free and General Pardon, Indemnity and Oblivion' (12 Charles II c. 11) and the Scottish 'Act Rescinding and Annuling the pretended parliaments in the years 1640, 1641 etc.' or, 'Act Recissory'.

emerged from the Restoration differed significantly from its pre-war incarnation. It was this restored British monarchy, modified by the Revolution of 1688-1689, that preceded the Union. Salient features of this 'Restoration Settlement' are therefore important for the purposes of understanding what the Union changed, and are considered below.

### **Foreign policy and English parliamentary co-operation**

The restored monarchy inherited from the Protectorate enhanced geopolitical prestige (having fought successful wars against the Dutch Republic and the Spanish Monarchy), an expanded English colonial presence in the Caribbean, standing armies in each kingdom (albeit significantly reduced in size after the Restoration<sup>184</sup>) and a powerful Navy.<sup>185</sup> This legacy came with a reformed taxation apparatus (the Land Tax and Excise in England, the 'cess' in Scotland) which dispensed with the need for the aggressive and controversial exploitation of prerogative and feudal rights.<sup>186</sup> This advantage, however, came at a cost for the monarchy because parliamentary control over taxation was entrenched in each kingdom, particularly in England, where the concessions made by Charles I in 1641 were substantially confirmed.<sup>187</sup> Moreover, because the English parliament underestimated 'ordinary' royal expenditure, peacetime parliamentary taxation was necessary until royal profligacy was brought under control, French subsidies made available and Danby's success in 1677-1678 in extending the auxiliary customs granted in 1671 took effect.<sup>188</sup> This enhanced role for parliament was intentional: the Restoration Settlement reflected the mainstream ideal of a 'counselled king' who would rule as a limited, legal monarch in harmony with his parliaments, which would have a permanent role in royal government.<sup>189</sup>

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<sup>184</sup> H. Smith, *Armies and Political Change in Britain, 1660-1750* (Oxford, 2021), pp. 16-25.

<sup>185</sup> Navy personnel in 1660 amounted to 19,551 with 156 ships, compared to 9,470 with 50 ships in 1633: M.J. Braddick, *The Nerves of State: Taxation and the Financing of the English State 1558-1714* (Manchester, 1996), pp. 27-34.

<sup>186</sup> Braddick, *Nerves of State*, pp. 95-106.

<sup>187</sup> Holmes, *Great Power*, pp. 33-35.

<sup>188</sup> Holmes, *Great Power*, pp. 88-89 and pp. 117-118.

<sup>189</sup> Holmes, *Great Power*, p. 110.

Importantly, this meant that the King could only pursue an effective foreign policy, that is, one involving the use or threat of military force, with parliamentary support for the raising of the necessary funding. In practice, given England's superior wealth, this meant the support of the *English* parliament and engagement with *English* politicians deeply suspicious of providing funds to maintain an army.<sup>190</sup> The geopolitical significance of this political reality was recognized by Louis XIV, who funded parliamentary opposition to Charles II to neutralize Danby's Dutch alliance,<sup>191</sup> and by his rival William III of Orange, who realized that the British monarchy would never be a useful ally without unity of purpose between the king and the English parliament.<sup>192</sup> It was also recognized by Charles II: 'Give me my just prerogatives and for subsidies I will ask no more unless I and the nation should be so unhappy as to have a war on our hands'.<sup>193</sup> After the experience of the Dutch wars, Charles II and James took care to minimize their entanglement in European geopolitics, preferring to protect their prerogatives from parliamentary encroachment.

### **Court and Country**

The restoration of monarchy necessarily involved the restoration of the King's Court as a political institution, since by definition, the Court was where the King abided.<sup>194</sup> It broadly comprised four autonomous divisions with overlapping responsibilities: the Household, under the Lord Steward, which operated royal residences; the Chamber, under the Lord Chamberlain, responsible for public ceremony; the Stables, under the Master of the Horse; and the Bedchamber, under the Groom of the Stole, responsible for the monarch's private apartments and personal needs.

However, the parliaments' new importance meant that the Court was no longer the undisputed centre of political power that it had been before the Civil Wars. This was reflected in private

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<sup>190</sup> Smith, *Armies*, pp. 27-28. The impeachment proceedings against both Clarendon and Danby accused them of aiming to use the army to introduce arbitrary government: p. 58.

<sup>191</sup> Smith, *Armies*, p. 50.

<sup>192</sup> Harris, *General in Winter*, p. 32.

<sup>193</sup> Harris, *General in Winter*, p. 35, citing Ailesbury, *Memoires*, volume 1, p. 97.

<sup>194</sup> N. Cuddy, 'Reinventing a monarchy: the changing structure and political function of the Stuart Court 1603-1688', in E. Cruikshanks (ed.) *Stuart Courts* (Stroud, 2000), p. 62.

business, which would previously have been dealt with by the Court, increasingly being brought before the parliaments. Accordingly, royal favour and confidence, while still fundamental, ceased to be sufficient qualification for those aspiring to become the monarch's chief advisers, and the ability to manage parliaments (largely for the purposes of raising taxes) became a further requirement.<sup>195</sup> However, Court group development of management techniques became an important new source of conflict with the parliaments. Clifford's<sup>196</sup> and then Danby's attempts to build a 'Court Party' in the English parliament consolidated the 'Country' sentiment which had emerged in the 1660's in response to demands for extraordinary taxes to fund the Dutch wars and concern over Court profligacy.<sup>197</sup> From 1674 under Shaftesbury's<sup>198</sup> leadership it developed into a 'party' which challenged Court group management practices and sought to protect parliament's independence.<sup>199</sup> In Scotland too, a 'vibrant constitutional opposition' to Lauderdale's management of parliament emerged under the leadership of the 3rd Duke of Hamilton.<sup>200</sup>

### **Interdependency and English domination**

During the Interregnum, English domination over the other two kingdoms was established by military conquest.<sup>201</sup> Accordingly, even though the Cromwellian incorporating union of Ireland and Scotland with England did not survive the Restoration, it was clear that England had the means to enforce control over the other two, as it did in the case of Ireland in 1689-1691. This provides important context later in 1704-1707 when threats of conquest emanated from London after the Scottish parliament refused to align the Scottish succession with England's and during the Union ratification process.<sup>202</sup>

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<sup>195</sup> Cuddy, 'Reinventing a monarchy', pp. 73-78.

<sup>196</sup> English Lord Treasurer, 1672-1673.

<sup>197</sup> Holmes, *Great Power*, p. 110.

<sup>198</sup> English Lord Chancellor 1672-1673: 'Country', 'Exclusionist' and 'Whig' leader, 1673-1683.

<sup>199</sup> Holmes, *Great Power*, pp. 116-117; T.J.G. Harris, *Restoration: Charles II and his Kingdoms 1660-1685* (London, 2006), pp. 78-82.

<sup>200</sup> C. Jackson, *Restoration Scotland, 1660-1690* (Woodbridge, 2003), pp. 92-101.

<sup>201</sup> For the effect on Scottish morale, see Macinnes, *Union & Empire*, p. 75.

<sup>202</sup> For example, *HMC Seafield*, Godolphin to Seafield, 11 August 1705, p. 207.

At the same time, the experience of the Civil Wars demonstrated the fundamental political interdependency of the kingdoms. Not only did the English parliament conclude a military alliance with the Scottish Covenanters,<sup>203</sup> but the Royalists also sought to restore their fortunes using Scottish and Irish allies. Both the Covenanter leadership and the English Commonwealth realized that their security required a friendly regime in the other polity. It was impossible for either government to ignore the 'British' context.<sup>204</sup> This interdependency was evident throughout subsequent crises. In 1681 Charles II used an English army to crush the Covenanters<sup>205</sup> and secured a Scottish Succession Act enjoining strict hereditary succession to overawe English Whigs seeking to prevent James from succeeding to the British crowns.<sup>206</sup> Later, in 1689, Scottish Revolutionaries put forward proposals for an incorporating union with England to safeguard their overthrow of the Royalist regime.<sup>207</sup>

### **The Navigation Acts**

Increasingly powerful English commercial interests were responsible for the Commonwealth's Navigation Act<sup>208</sup> and the retention of parliamentary control over trade, previously a prerogative matter, after the Restoration. A new Navigation Act<sup>209</sup> was introduced to stimulate domestic demand for shipping which (*inter alia*) required all exports from the Plantations and African and Asian trading posts to be shipped directly to England (or its colonies). The ensuing Staple Act<sup>210</sup> made England an *entrepot* in both directions for colonial trade, while the Trade Act tightened up the collection of duties on plantation goods shipped from one plantation to another before export.<sup>211</sup>

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<sup>203</sup> The 1643 'Solemn League and Covenant'.

<sup>204</sup> J. Morrill, 'The Fashioning of Britain,' in Ellis and Barber (eds.) *Conquest & Union*, p. 31.

<sup>205</sup> Smith, *Armies*, p. 59.

<sup>206</sup> Harris, *Restoration*, pp. 167-174; pp. 333-335 and pp. 338-346.

<sup>207</sup> Whatley and Patrick, 'Persistence, Principle and Patriotism', pp. 171-176. See also A. Raffe, 'James VII's Multi-confessional Experiment and the Scottish Revolution of 1688', *History*, 100 (2015), pp. 355-356 for the impact of English developments on the Scottish Revolution.

<sup>208</sup> J.E. Farnell, 'The Navigation Act of 1651, the First Dutch War, and the London Merchant Community,' *Economic History Review*, 16 (1964), pp. 439-454.

<sup>209</sup> 12 Charles II, c. 18. All Interregnum legislation lapsed on the Restoration.

<sup>210</sup> 15 Charles II, c. 7, 'An Act for the Encouragement of Trade'.

<sup>211</sup> 25 Charles II, 2 c. 7.



Ireland, as an English dependency, was given limited access to the mercantile system created by these Acts, although this was significantly reduced in 1671. Scotland, however, was almost completely excluded, although (like Ireland) it had been included in the Commonwealth system, and heavy duties were imposed on Scottish imports. Partly this was because ineffective Scottish collection presented a potential loophole through which goods prohibited or subject to higher rates of duty in England could pass. There was also concern that the Dutch, with whom the Scots had a long-established trading relationship, might access the Plantations trade through Scotland.<sup>212</sup> This mercantile system not only survived the Revolution but, because Scottish traders became adept at circumventing it (to the detriment of English and colonial customs revenues<sup>213</sup>), was extended in 1696 when the 'Plantation Trade Act' (*inter alia*) barred Scots from holding office in the Plantations.<sup>214</sup>

These Navigation Acts became an important source of conflict between the kingdoms. They were particularly offensive for Scots because they effectively treated them as aliens, notwithstanding the decision in Calvin's Case.<sup>215</sup> Essentially this decision by the English courts established a common nationality for all James VI & I's subjects, based on their common allegiance to the King, and (from an English common law perspective) naturalized all Scots born after James' accession to the English throne (the '*post nati*'). Scottish (and indeed royal) concerns over the effect of the Navigation Acts prompted abortive discussions on commercial union, access to the Plantations and the removal of discriminatory tariffs in 1664 and 1667-1668.<sup>216</sup> Complaints about the discriminatory nature of the Navigation Acts, especially that of 1696, and their violation of *post nati* rights, were a recurring

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<sup>212</sup> Keith, *Commercial Relations*, pp. 87-89; Macinnes, *Union & Empire*, pp. 185-186.

<sup>213</sup> Macinnes, *Union & Empire*, pp. 187-89.

<sup>214</sup> 7 & 8 William III, c. 22, 'Act for preventing Frauds and regulating Abuses in the Plantation Trade'.

<sup>215</sup> Also known as Calvin's or Colville's case, 77 ER 377 (1608) Co Rep 1a.

<sup>216</sup> Keith, *Commercial Relations*, pp. 91-94; E. Hughes, 'The Negotiations for a Commercial Union between England and Scotland in 1668', *SHR*, 24 (1926), pp. 30-47.

feature of Scottish public discourse in the period immediately preceding the Union and were not confined to opponents of the regime.<sup>217</sup>

### Challenges to the Restoration Settlement

After the political, religious and social upheavals of the Interregnum, the restored monarchy inevitably failed to satisfy all expectations. Dissatisfaction was, however, exacerbated by deliberate Court group policies, with different outcomes in each kingdom. These provide important context for the Union and are considered below.

The Irish landholding structure had been completely remodelled during the Civil Wars by the English parliament's confiscation of (mainly Roman Catholic) Royalist land to finance its wars and the Cromwellian conquest. On the Restoration, Royalists sought recovery of, or compensation for, these confiscations while the 'New English' landowning class established by the Interregnum regimes sought to legitimize them. Inevitably, these competing objectives could not be reconciled. Although there was some restitution of Roman Catholics by the Court of Claims established by the 1662 Irish Act of Settlement, this Act (together with the 1665 Act of Explanation) broadly entrenched the position of the new ruling class. Consequently, the proportion of land held by Roman Catholics fell from around 60% in 1640 to some 20% by the mid- 1660's.<sup>218</sup> The fundamental fragility of this settlement was demonstrated by the ease with which Tyrconnel overthrew it and restored the dominance of the 'Old English' in 1687-1688.<sup>219</sup>

In Scotland, a powerful Royalist regime was established backed by a vigorous divine right ideology<sup>220</sup> which made a sustained attempt to assert *monarchical* (and not *English*) supremacy and eradicate the structure and ideology of the 1641 Presbyterian Covenanter regime. The Covenanter

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<sup>217</sup> For example, [G. Ridpath] *The Case of Scots-men residing in England and in the English Plantations* (London, 1702); [J. Hodges], *Essay on Union* (Edinburgh, 1706), pp. 10-17 and [Tarbat], *Parainesis Pacifica, or a persuasive to the union of Britain* (Edinburgh 1702), p. 9.

<sup>218</sup> Holmes, *Great Power* p. 31, citing J.G. Simms, *Jacobite Ireland 1685-91* (London 1969).

<sup>219</sup> J. Miller, 'The Earl of Tyrconnel and James II's Irish Policy', *The Historical Journal*, 20 (1977), pp. 803-823.

<sup>220</sup> Jackson, *Restoration Scotland*, pp. 53-59.

constitution was completely rescinded, all legislation after 1633 being annulled,<sup>221</sup> the parliamentary committee known as the Lords of the Articles was re-established<sup>222</sup> and extensive royal prerogative rights were confirmed by statute. Episcopacy was restored in 1662, royal control over the Scottish church was established by the 1669 Act of Supremacy, while the 1681 Test Act required office holders to affirm royal supremacy in church and state.<sup>223</sup> The Scottish Militia Acts allowed the King to use Scottish forces outside Scotland, causing much English parliamentary concern.<sup>224</sup> More so than in England, non-conformity was associated with sedition and punished accordingly, so that by 1663 about 33% of Presbyterian clergy had been deprived their livings.<sup>225</sup>

Owing to the strength and sophistication of the Covenanter regime this programme was not wholly successful.<sup>226</sup> From 1669 the Royalist ministry encountered resistance in the Scottish parliament,<sup>227</sup> which in 1686 refused to sanction James's proposals for religious toleration.<sup>228</sup> It also met determined non-parliamentary resistance, especially in the South West, where presbyterianism had taken root, although this did not connect with the parliamentary opposition.<sup>229</sup> Armed rebellions broke out in 1666 and 1679, while the 1680 'Sanquar Declaration' by militant presbyterians unequivocally called for the overthrow of royal government. Although toleration was offered through declarations of indulgence in 1669, 1672 and 1679, non-conformists were ruthlessly suppressed in the 'Killing Times' which followed the assassination of Archbishop Sharp and the

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<sup>221</sup> By the 'Act Recissory'.

<sup>222</sup> For the use of this committee to minimize parliamentary debate and control the agenda, see G.H. MacIntosh, 'Arise King John: Commissioner Lauderdale and Parliament in the Restoration Era', in *Parliament & Politics in Scotland*, pp. 165-166

<sup>223</sup> Harris, *Restoration*, pp. 106-114; G.H. MacIntosh, 'Royal supremacy restored? Scottish parliamentary independence in the Restoration era, 1660-88', *Parliaments, Estates & Representation*, 34 (2014) pp. 151-155.

<sup>224</sup> Smith, *Armies*, pp. 46-50.

<sup>225</sup> Harris, *Restoration*, p. 114.

<sup>226</sup> K.M. Brown and A.I. Mann, 'Introduction', pp. 35-36; and J. Scally, 'The Rise and Fall of the Covenanter Parliaments, 1639-1651', pp. 142-150, in *Parliament & Politics in Scotland*.

<sup>227</sup> Jackson, *Restoration Scotland* pp. 92-101; MacIntosh, 'Arise King John,' pp. 168-183.

<sup>228</sup> Harris, *Revolution*, pp. 158-163.

<sup>229</sup> MacIntosh, 'Royal Supremacy', p. 163.

defeat of the Covenanter rising at Bothwell Brig in 1679.<sup>230</sup> This persecution engendered a mythology in which presbyterians featured as the unique object of Royalist persecution and the backbone of resistance to 'arbitrary and despotic government'.<sup>231</sup> Many victims of persecution fled to the Dutch Republic where they formed a distinct exile group associated with William III of Orange, which played a key part in the Revolution.<sup>232</sup> James's Scottish declarations of indulgence granting freedom of worship to both Roman Catholics and presbyterians were, in part, an attempt to deal with the evident fact that persecution had made Scotland a 'deeply fissured nation'.<sup>233</sup> Their main effect, however, was to contribute to the presbyterian character of the Scottish Revolution in 1689.<sup>234</sup>

In England, the failure of the Restoration church settlement of 1660-1665<sup>235</sup> to embrace comprehension excluded a powerful Protestant non-conformist (or 'Dissenter') minority from participation in the regime. This provided a nucleus for parliamentary opposition after 1663.<sup>236</sup> Indeed, sympathy for Dissent became a consistent feature of the 'Country' agenda which emerged in response to Court group efforts to raise taxes and manage parliament.<sup>237</sup> This was coupled with concern over the King's geopolitical alignment with Louis XIV, whose apparent aspirations to 'universal monarchy' (which was associated with 'popery' and arbitrary rule) provoked increasing alarm after his invasion of the Dutch republic in 1672.<sup>238</sup>

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<sup>230</sup> J. Smyth, *The Making of the United Kingdom 1660-1800: State, Religion and Identity in Britain and Ireland* (Edinburgh, 2001), pp. 43-47; Harris, *Restoration*, pp. 117-129. Ridpath's *Discourse*, pp. 113-126, summarizes the presbyterian perspective.

<sup>231</sup> Riley, *King William*, p. 4.

<sup>232</sup> Whatley, *Scots & Union*, pp. 87-92.

<sup>233</sup> Whatley, 'Reformed Religion', pp. 66-99.

<sup>234</sup> Raffe, 'James VII's Multi-confessional experiment', p. 357, pp. 371-373.

<sup>235</sup> Corporation Act (13 Charles II, st.2, c. 1); Act of Uniformity (14 Charles II, c. 4); Conventicles Act (16 Charles II, c. 4); Five Mile Act (17 Charles II, c. 2).

<sup>236</sup> R. Davies, 'The "Presbyterian" opposition and the emergence of party in the House of Lords in the reign of Charles II', in C. Jones (ed.) *Party and Management in Parliament, 1660-1684* (Leicester, 1984), pp. 1-35.

<sup>237</sup> Above, p. 62.

<sup>238</sup> S. Pincus, 'The English Debate over Universal Monarchy', in *Union for Empire*, pp. 43-52.

This concern was confirmed by Charles's alliance with France in the Third Dutch War, his abortive 1672 Declaration of Indulgence (claiming the prerogative right to suspend application of the statutes establishing the Anglican church settlement to Dissenters and Roman Catholics) and the revelation that his heir, James, had converted to Catholicism. It culminated in the attempt to exclude James from the royal succession by Act of parliament in 1679-1681 (the 'Exclusion Crisis'). Proponents of Exclusion (or 'Whigs') became associated with parliamentary control over the succession, the limitation of royal prerogatives, the legitimacy of resistance to arbitrary government, and toleration or comprehension of Dissent. The King's supporters (or 'Tories') became associated with the defence of the prerogative, strict hereditary succession, passive obedience and non-resistance to royal authority, and vigorous support for the Anglican church.

With Tory support, improved customs revenues and French subsidies, Charles was not only able to defeat Exclusion but also to persecute its Whig opponents and rule without parliament in the period sometimes known as the 'Tory,' or 'Stuart Reaction.' The Whigs were not, however, eradicated.<sup>239</sup> Some fled to the Dutch Republic while others remained discreetly in England, but they re-emerged as a powerful political force after the 'Glorious Revolution' of 1688-1689.

### The impact of the Revolution

This Revolution, whereby James was removed as King of England and Scotland and replaced by William III of Orange and his wife Queen Mary as joint sovereigns, was effected in England by a combination of conservative but disaffected Tories, Whigs and other victims of the 'Stuart Reaction,' and an autocratic prince backed by an invading army.<sup>240</sup> Each had different aims and expectations so that the political and religious settlement in each kingdom which emerged over the ensuing years was necessarily an uneasy compromise that only slowly and conditionally achieved domestic and geopolitical recognition. In Scotland, opponents of the Royalist regime seized the opportunity

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<sup>239</sup> Harris, *Revolution*, pp. 54-57.

<sup>240</sup> Harris, *Revolution*, pp. 29-30 and p. 485.

presented by the collapse of James's authority<sup>241</sup> to invert the political and religious order, establishing their own narrowly based regime characterized by the exclusion of opponents from political participation and religious intolerance. In Ireland, James's regime was not overthrown and provided a base from which he attempted to recover his crowns. The outcome of the ensuing war was the re-imposition of English control and the restoration of an embattled Protestant elite dependent on English military backing. In each kingdom, the Revolution stimulated issues which created new, dynamic tensions between them. These are important for understanding the nature of the Union and are considered below.

### **Reassertion of the role of parliament**

Constitutionally, the Revolution restored the fundamental feature of the Restoration settlements by reasserting the role of parliaments in the government of each kingdom, reversing its minimization during the Stuart Reaction. The post-Revolution financial settlement in England entrenched its parliament's role by ensuring that even in peacetime, the monarch would be obliged to summon parliament to provide 'ordinary' finance for civil government. Arguably this limited royal autonomy much more seriously than the Bill of Rights provisions denying the suspension prerogative and severely restricting the dispensation prerogative.<sup>242</sup> In Scotland, Court group management of the parliamentary agenda was weakened by the abolition of the Lords of the Articles and its influence in parliament diluted by the abolition of episcopacy. In Ireland, the cost of the reconquest and maintenance of the Protestant regime thereafter enhanced the constitutional importance of the

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<sup>241</sup> His Scottish army had been marched into England to counter William's invasion.

<sup>242</sup> C. Roberts, 'The Constitutional Significance of the Financial Settlement of 1690', *The Historical Journal*, 20 (1977), pp. 59-76. W. Troost, *William III, the Stadholder King: A Political Biography* (trans. J.C. Grayson) (Aldershot, 2005), pp. 213-214, J. Brewer, *The Sinews of Power: War, Money & the English State 1688-1783* (London, 1989), pp. 144-145, and Horwitz, *Parliament, Policy and Politics*, pp. 86-88, all follow Roberts' assessment.

Irish parliament.<sup>243</sup> The Revolution therefore reconfirmed that the ability to manage parliament was a prerequisite of political power in all three kingdoms.

### **Geopolitical impact**

The Revolution committed the Regal Union to William's struggle with Louis XIV, reversing its alignment with France, which had enabled it to distance itself from European conflict, minimize parliamentary participation in government, and (arguably) focus on commerce and the extension of its overseas interests.<sup>244</sup> The conflict with France presented wholly new threats to its security. Whereas the Dutch Republic had presented only a limited invasion threat, the French king possessed a powerful navy and a seemingly invincible army.

In these circumstances it became much more important to ensure close alignment between the component kingdoms and ensure that neither Ireland nor Scotland could be used as a bridgehead for French invasion. Previously, the existence of separate administrations and parliaments in Scotland and Ireland had suited Charles II and James, who used their strong Royalist regimes to overawe opposition in England and test out controversial policies.<sup>245</sup> At the same time the pressures exerted by participation in great power geopolitics exacerbated the potential for conflict between the kingdoms. The policy of 'isolation without splendour'<sup>246</sup> had, by contrast, significantly reduced the potential for such conflict.

The expulsion of the legitimate King and Louis XIV's support for him added an ideological dimension to these geopolitical considerations. This was the defence of the Revolution's achievement against a

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<sup>243</sup> C.I. McGrath, 'English Ministers, Irish Politicians and the Making of a Parliamentary Settlement in Ireland, 1692-1695', *EHR*, 119 (2004), pp. 585-613; and 'Parliamentary Additional Supply: The Development and use of Regular Short-term Taxation in the Irish Parliament, 1692-1716', *Parliamentary History*, 20 (2001), pp. 27-54.

<sup>244</sup> S. Pincus, *1688: the First Modern Revolution* (Yale, 2009), pp. 363-365; Holmes, *Great Power* pp. 243-248; and G.C. Gibbs, 'The Revolution in Foreign Policy', in Holmes (ed.) *Britain after the Glorious Revolution, 1689-1714* (London, 1969), pp. 59-79. Gibbs and Holmes both argue that the benefit of avoiding European entanglement was entirely 'fortuitous': *Great Power*, p. 104; 'Revolution in Foreign Policy', p. 60.

<sup>245</sup> Goldie, 'Divergence and Union', p. 226; Harris, *Revolution*, pp. 30-31 and pp. 145-146.

<sup>246</sup> Holmes, *Great Power*, pp. 93-104.

Jacobite restoration, backed by France, which was associated with Roman Catholicism, arbitrary government and universal monarchy.

### **War, Country agendas and the English parliament**

The French war required unprecedented levels of taxation to support an army which, at its largest, amounted to over 80,000 men (twice the size of James's army).<sup>247</sup> It caused enormous damage to the trade and commerce of all three kingdoms. Ultimately, in 1695-1696, it not only precipitated an English financial and commercial crisis, but also a liquidity crisis driven by the need to fund the army in specie and the differential exchange rates on the continent (owing to the debased English coinage).<sup>248</sup> Simultaneously, the war in Flanders descended into stalemate. In England, where the experience of an absentee King was a novelty, William faced growing criticism over the perceived subjection of English interests to those of the Dutch. In Scotland, which lacked resources to protect its commerce from French privateers and whose lucrative French export market for its fish was closed,<sup>249</sup> the effects of war were compounded by discriminatory tariffs imposed by England (for example, on linen, in 1698) and the famine of the 'Ill Years'.<sup>250</sup>

In these conditions powerful parliamentary 'Country' agendas emerged in all three kingdoms.

Broadly these sought to hold Court groups to account for tax revenues and to protect parliamentary independence, for example by frequent elections and the exclusion of royally-appointed military and fiscal office-holders (whose numbers increased enormously as a consequence of the war and its funding requirements). They also shared an aversion to standing armies, wars in defence of foreign interests, foreigners in high office, generous grants of land and revenues to Court group supporters,

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<sup>247</sup> J. Childs, *The British Army of William III, 1689-1702* (Manchester, 1987), pp. 102-103 and pp. 252-253; Brewer, *Sinews*, p. 30, table 2.1 citing Mitchell and Deane (eds.) *Abstract of British Historical Statistics* (Cambridge, 1962), pp. 401-402.

<sup>248</sup> P.G.M. Dickson, *The Financial Revolution in England: A Study in the Development of Public Credit* (London, 1967), pp. 343-349; Horwitz, *Parliament, Policy & Politics*, pp. 159-161; Macinnes, *Union & Empire*, pp. 188-189.

<sup>249</sup> Whatley, *Scots & Union*, pp. 170-179.

<sup>250</sup> K.J. Cullen, *Famine*, summarized in Whatley, *Scots & Union*, pp. 154-169.



and Roman Catholicism (which continued to be associated with arbitrary government). This agenda could appeal both to conservative and radical opinion and so unite former supporters of Charles and James with their former opponents. It also provided a convenient set of 'patriotic' principles for out-of-office politicians. It was therefore increasingly associated with English Tories following their progressive exclusion from ministerial and local office between 1693 and 1700.<sup>251</sup>

Scotland's financial resources were barely adequate to maintain its civil government and a small garrison. Ireland was exhausted by the war of reconquest, while the resolution of the 'sole right' dispute in 1695 limited the amount of extraordinary supply available from the Irish parliament.<sup>252</sup>

Accordingly, it was the English parliament which provided the financial resources for William's war, more than doubling annual average English tax revenues to £3.64m.<sup>253</sup> This required regular, annual sessions of parliament which offered an opportunity for scrutinizing government expenditure and debating the conduct of the war. Court groups were therefore obliged to take into account English interests represented in parliament, and to co-operate with English politicians who could manage them.<sup>254</sup> The war therefore made explicit the reality implicit in the Restoration Settlement, that the British monarchy's effective participation in great power geopolitics necessitated the support of the *English* parliament, with profound implications for relations between England and Scotland.<sup>255</sup>

This leverage also meant that in England the Country agenda was raised early and with conspicuous success.<sup>256</sup> A parliamentary Commission of Public Accounts was established in 1691<sup>257</sup> and additional limitations imposed on royal power in return for supply, for example, the Triennial Act of 1694<sup>258</sup>

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<sup>251</sup> D. Hayton, 'The Country Interest and the Party System c.1689-c.1720', in *Party and Party Management in Parliament*.

<sup>252</sup> McGrath, 'Parliamentary Settlement', pp. 606-611 and 'Parliamentary Additional Supply', pp. 34-36.

<sup>253</sup> Brewer, *Sinews*, p. 89.

<sup>254</sup> Holmes, *Great Power*, p. 225; Carter, 'The Revolution and the Constitution', p. 44 and p. 49; and E.L. Ellis, 'William III and the Politicians', in *Britain after the Glorious Revolution*, pp. 118-130.

<sup>255</sup> Harris, *Revolution*, pp. 494-495.

<sup>256</sup> Smith, *Armies*, pp. 158-159.

<sup>257</sup> J.A. Downie, 'The Commission of Public Accounts and the Evolution of the Country Party', *EHR*, 91 (1976), pp. 33-51.

<sup>258</sup> 'Act for the frequent Meeting and Calling of Parliaments' (6 & 7 William & Mary, c. 2), limiting a parliament's duration and the interval between parliaments to three years.

and the place Acts of 1694, 1700 and 1701.<sup>259</sup> Further, once the Treaty of Rijswijk ended the war in 1697, a powerful 'New Country Party' emerged which drastically reduced the size of William's army.<sup>260</sup> Although Country issues ceased to command the same level of traction after the Act of Settlement imposed significant additional limitations on the prerogatives of Anne's successor, they by no means disappeared.<sup>261</sup>

### **'English influence'**

The Scottish revolutionary settlement, reflected in the 'Claim of Right', was arguably more explicitly contractual than the English. However, once William had conceded the abolition of the Lords of the Articles, episcopacy and the royal supremacy, an increased number of shire commissioners and the return of presbyterian church government, Scottish constitutional change halted. Accordingly, there were no Scottish equivalents of the Triennial Act, *habeas corpus*, the parliamentary Commission of Account and place Acts. Trade remained a prerogative matter, despite objections in the 'Grievances' which accompanied the Claim of Right, and when the war ended, the army was not reduced. Furthermore, despite the Claim of Right's insistence on the frequency of parliaments, the Convention Parliament sat until dissolved by Anne in 1702. In the absence of the Lords of the Articles and the bishops, Court groups were obliged to employ the same parliamentary management techniques as in England, involving the distribution of titles, office, pensions and places,<sup>262</sup> provoking (as in England) Country concern for parliamentary independence.

Indeed, Scottish Country polemicists argued that the Scottish parliament had failed to exploit the opportunity presented by the Revolution to secure modification of the Regal Union in Scotland's

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<sup>259</sup> Prohibiting Land Tax collectors, and Commissioners of Salt Duty and of Customs and Excise, from sitting as MPs.

<sup>260</sup> L.G. Schworer, 'The Role of King William III of England in the Standing Army Controversy 1697-1699', *Journal of British Studies*, 5 (1966), pp. 74-94.

<sup>261</sup> Discussed in G.S. Holmes, 'The Attack on the Influence of the Crown', *BIHR*, 39 (1966), pp. 47-68.

<sup>262</sup> Ferguson, *Relations*, pp. 175-176.

favour.<sup>263</sup> Taken with Court group dependence on the English parliament and the influence of English politicians, it seemed that arbitrary royal government had been replaced with government by English politicians and the English parliament. Accordingly, the royal prerogative that had encroached on the rights of the Scottish parliament was now in the hands of English ministers accountable to the English parliament.<sup>264</sup> In these narratives, Court groups were stigmatized as *English* in much the same way that in England they were stigmatized as *Dutch*. These Scottish polemics did not so much complain over involvement in ‘England’s’ wars, but rather that having expended ‘blood and treasure’ in support of the King, Scotland had not been rewarded by the terms of the Treaty of Rijswijk.<sup>265</sup>

These themes became a commonplace of Scottish Country discourse which developed a powerful narrative tracing ‘English influence’ back to the Union of the Crowns in 1604.<sup>266</sup> Presbyterian polemicists such as Ridpath associated this influence with a High Church or Tory ‘faction’ at Court which sought to usurp Scottish sovereignty and the liberties of the Scottish parliament and Kirk, and to extend prerogative powers through bribery and intimidation.<sup>267</sup> Their remedy was to restrict prerogative rights in Scotland and transfer them to the Scottish parliament. Radicals inspired by Buchanan’s *De Jure Regni apud Scotos*<sup>268</sup> and the 1641 Covenanter constitution represented this as the restoration of the ancient Scottish constitution.<sup>269</sup> While this tradition informed the ‘Club’

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<sup>263</sup> For example, [W. Seton of Pitmidden], *The interest of Scotland in Three Essays* (London, 1700) Essay III, p. 94.

<sup>264</sup> For example, [G. Ridpath], *Scotland’s grievances relating to Darien* (Edinburgh, 1700), pp. 18-19 and [W. Seton of Pitmidden], *A Short Speech by a Worthy Member in Parliament concerning the Present State of the Nation* (Edinburgh, 1700), p. 4.

<sup>265</sup> [Ridpath], *Grievances*, p. 34. This was a universal Scottish complaint: see [Tarbat], *Parainesis*, pp. 22-23; [A. Fletcher], *Two Discourses concerning the Affairs of Scotland* (Edinburgh 1698), First Discourse, p. 16 and pp. 20-21.

<sup>266</sup> [Ridpath], *Grievances*, p. 31; Bowie, *Public Opinion*, pp. 67-68 and pp. 69-70.

<sup>267</sup> [Ridpath], *Grievances*, p. 21, p. 41.

<sup>268</sup> See Jackson, *Restoration Scotland*, pp. 64-72.

<sup>269</sup> For example, [G. Ridpath], *An historical account of the antient rights and power of the parliament of Scotland* (Edinburgh, 1700).

agenda in 1689-1691<sup>270</sup> and Fletcher's radical program from 1698, however, mainstream Country demands were very similar to, if not inspired by, the English example.<sup>271</sup>

## Darien

Such narratives had limited political traction until the Darien disaster. As Scotland had been excluded from the English trading system and denied a 'communication of trade' on the failure of the union initiatives in 1668, 1670 and 1689, it sought to pursue an independent trading policy. The Company of Scotland trading to Africa and the Indies (the 'Africa Company') was therefore established by Act of Parliament in 1695. It had extensive powers to make treaties and plant colonies, the exclusive licence to trade with the Americas for 31 years and extremely generous tax privileges, including a virtual exemption from customs duties for 21 years. Originally, it was envisaged that the Company would attract capital from both England and Scotland and challenge the monopoly of the English East India Company, which was already under attack from would-be interlopers.<sup>272</sup> Importantly, the Act pledged the King's support if the Company's rights were disputed. These privileges went well beyond William's instructions to his High Commissioner.<sup>273</sup> Coming at a time of economic crisis in England, it provoked a storm of protest from powerful English commercial interests including, naturally, the East India Company. After summoning the Africa Company's directors and promoters to appear before them and taking evidence from English merchant groups and the Customs Commissioners, both English Houses of Parliament addressed the King, protesting that the Company would prejudice English trading interests.<sup>274</sup> The Commons went further and resolved to impeach the directors and promoters of the Company, scuppering its attempt to raise capital in England.<sup>275</sup>

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<sup>270</sup> J. Halliday, 'The Club and the Revolution in Scotland', *SHR*, 55 (1966), pp. 143-155.

<sup>271</sup> For example, [Ridpath], *Grievances*, p. 44.

<sup>272</sup> Riley, *King William*, pp. 97-99; D. Armitage, 'The Scottish Vision of Empire: Intellectual Origins of the Darien Venture', in *Union for Empire*, pp. 99-104.

<sup>273</sup> NLS, MS 14403, ff. 427-428 Johnstone to Tweeddale, December 1695, ff. 435-436 Johnstone to Tweeddale 12 and 13 December, 1695; Keith, *Commercial Relations*, p. 167.

<sup>274</sup> *LJ*, xv, p. 611; *HMC Lords*, New Series, ii, pp. 3-21; *CJ*, xi, p. 365, p. 398 and p. 400.

<sup>275</sup> *CJ*, xi, p. 407.

The Court group could not ignore English protests given its dependence on English taxation. In April 1697, with the connivance of English ministers<sup>276</sup> the Company's attempts to raise capital in Hamburg were frustrated when the King's representative, Sir Paul Rycout, notified the city senate that the Company was acting without royal authority and that any dealings with it would incur the King's displeasure. What was particularly offensive from a Scottish perspective was that Rycout not only misrepresented the facts, but also acted in the name of the King of Great Britain.<sup>277</sup> Nor could the Court group ignore the geopolitical implications<sup>278</sup> when it became clear that the Company was sending an expedition to establish a colony in territory claimed by William's ally, Spain. A spy was therefore installed in the expedition, a naval squadron under Admiral Benbow sent to observe it, and in January 1699 the governors of English colonies and Plantations were ordered to issue proclamations prohibiting 'correspondence or succour' to the colonists.<sup>279</sup>

News of the proclamations (published from March 1699) coincided in Scotland with news of the colony's failure,<sup>280</sup> so that the disaster was wholly attributed to them rather than mismanagement.<sup>281</sup> Further, it appeared that this failure had been engineered with the connivance of the King, who had evidently acted duplicitously in promising to overrule Rycout and in publicly defending the colony's legitimacy.<sup>282</sup> This impression was compounded by William's refusal to bring forward the sitting of parliament to consider the colony's fate (as requested by the Company's addresses<sup>283</sup> and the National Addresses organized by the parliamentary opposition). It was confirmed by his apparent reluctance to intercede on behalf of the crew of the Company's ship *Dolphin*, imprisoned and sentenced to death by the Spanish colonial authorities, despite his

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<sup>276</sup> J.M. Orr, *Scotland, Darien and the Atlantic World, 1698-1700* (Edinburgh, 2018), pp. 55-56.

<sup>277</sup> APS, x, Draft address 17 January 1701, pp. 248-249; [Ridpath], *Grievances*, pp. 1-2 and p. 34.

<sup>278</sup> Described below, pp. 188-191.

<sup>279</sup> R. Communale, "'Ill Used by our Government': The Darien Venture, King William and the Development of Opposition Politics in Scotland, 1695-1701', *SHR*, 98 (2019), pp. 34-35; Orr, *Scotland and Darien*, pp. 22-27 and pp. 55-61.

<sup>280</sup> CSP, [unknown] to Carstares 8 August 1699 pp. 488-489; Lord Advocate to Carstares, 12 August 1699, p. 490; and Seafield to Carstares, 3 October 1699, pp. 498-499.

<sup>281</sup> Riley, *King William*, p. 132.

<sup>282</sup> Communale, 'Ill Used', pp. 33-34, citing *Edinburgh Gazette*, Number 13, 8-12 April 1699.

<sup>283</sup> CSP, Treasurer Depute to Carstares, 21 October 1699, pp. 499-504.

obligations under the 1695 Act.<sup>284</sup> As Chancellor Marchmont told Secretary Seafield, it was ‘common talk that the king hath noe kindness for Scotland nor for any person in it.’<sup>285</sup>

The failure of the Darien project was politically transformative because its financial and emotional shock was not confined to elite groups. Around 20% of the Scottish population were invested to some extent in the Company,<sup>286</sup> and the amount invested as a proportion of the kingdom’s available capital was enormous, four times the Scottish government’s annual income.<sup>287</sup> Although only £153,000 of the total investment of £400,000 was in fact paid up, this nevertheless represented a very significant proportion of Scotland’s available capital and a much larger proportion of its circulating coin.<sup>288</sup> In these conditions, the Company rapidly became a vehicle for Country agitation<sup>289</sup> and the narrative of ‘English influence’ found ready traction inside and outside parliament. Hamilton and Tweeddale were able to consolidate the parliamentary opposition into a powerful ‘Country Party’, while Scottish ministers were hopelessly compromised, being unable both to serve the King and preserve their domestic reputation.<sup>290</sup> Loyalty to the King became commonly equated with subservience to England, which had not previously been the case. As Ridpath claimed, Scotland’s King was taking advice from ‘an English and Dutch Faction mixt with some Scotchmen who have so little Interest in their Country or Affection to it, as to betray it for Bread, or the Favour of the Court’.<sup>291</sup>

The profound geopolitical and domestic consequences of the Darien episode are fully explored in Chapter 6.<sup>292</sup> In summary, however, it exposed underlying conflicts of interest within the Regal Union which highlighted the shortfall between the Court group’s geopolitical pretensions and its

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<sup>284</sup> *Communale*, ‘Ill Used’, pp. 36-39.

<sup>285</sup> *Marchmont*, iii, p. 184, Marchmont to Seafield 24 October, 1699.

<sup>286</sup> D. Watt, *The Price of Scotland: Darien, Union and the Wealth of Nations* (Edinburgh, 2007), pp. 82-83.

<sup>287</sup> Watt, *Price of Scotland*, p. 63.

<sup>288</sup> Whatley, *Scots & Union*, p. 186.

<sup>289</sup> *HMC Johnstone*, Marchmont to Annandale, 23 October 1699; Watt, *Price of Scotland*, pp. 164-167; Riley, *King William*, p. 132.

<sup>290</sup> *Marchmont*, iii, Marchmont to Seafield 18 October 1699, p. 178.

<sup>291</sup> [Ridpath], *Grievances*, pp. 7-8.

<sup>292</sup> Below, pp. 187-203.

practical limitations. Domestically, it discredited the King and his Scottish ministry and confirmed the Country narrative of English influence.

### **Succession**

If Darien fired Scottish dissatisfaction with the existing relationship with England, the need to settle the Scottish succession gave the Scottish parliament political leverage which it would otherwise have lacked to demand change in Scotland's favour. The Revolution established the right of the English and Scottish parliaments to determine the royal line of succession. In doing so it fundamentally challenged the divine right, passive obedience and non-resistance ideology that had sustained Tory support for the Stuart Reaction in England and the Royalist regime in Scotland. Crucially, however, neither parliament provided for the failure of the Revolutionary dynasty.

William's refusal to remarry after Queen Mary's death in 1694 and Gloucester's death in 1700 therefore presented the Regal Union with an existential crisis which handed enormous political leverage to both parliaments. In England (and Ireland) the Protestant Succession was vested in the Electress Sophia and her Protestant issue, but only after substantial concessions to the Country agenda in the 1701 Act of Settlement. These included the comprehensive exclusion of placemen, restrictions on the conduct of foreign policy and the monarch's freedom to leave the kingdom, and the exclusion of foreign advisors.<sup>293</sup> Crucially, however, the *Scottish* succession was unresolved on Anne's accession.

### **Scottish 'divisions'**

In Scotland, royal government dissolved following James' flight and William's occupation of London, enabling opponents of the Royalist regime to seize the initiative. They dominated the Convention of Estates summoned by William principally because, on the advice of an assembly of Scottish notables and exiles meeting in London, it was elected on the basis of a modified burgh franchise. This

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<sup>293</sup> 12 & 13 William III, c. 2.

extended voting rights to all Protestant burgesses to circumvent James's remodelling of Scottish burgh electorates.<sup>294</sup> Its effect was reinforced by the 'rabbling' of Jacobites and the secession of James's supporters, led by Viscount Dundee.<sup>295</sup> Consequently, William was obliged to make important concessions to the radical 'Club' agenda.<sup>296</sup> Episcopacy was abolished in 1689 and the Lords of the Articles and royal supremacy over the church in 1690. Presbyterian church government was reintroduced, albeit on the basis that it was the will of the people as expressed in the Claim of Right rather than presbyterian 'divine right'.<sup>297</sup> Thereafter, episcopalians were systematically excluded from civil and church office. However, episcopalians and presbyterians alike realized that what parliament had done could also be undone.<sup>298</sup> Disaffected episcopalians therefore agitated for parliamentary mitigation of the 1690 settlement, for example through comprehension or toleration Acts. In response, the dominant but insecure presbyterian establishment sought to retain its supremacy by close association with the Revolution and with parliament,<sup>299</sup> so that no new parliament was elected for fear of the return of 'anti-Revolutioners'.

The Scottish revolutionary regime therefore involved much less compromise with erstwhile supporters of the Royalist regime than in England, where Tories and Anglicans adhered to it, albeit many on the basis of its *de facto* authority. Accordingly, not only did it have a much narrower support base than in England, but it also faced much more extensive and intensive opposition. Presbyterian insecurity was exacerbated by episcopalian appeals to English Anglicans for support<sup>300</sup> and by Anne's known episcopalian sympathies. Accordingly, on her accession, the presbyterian

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<sup>294</sup> D.J. Patrick, 'Unconventional Procedure' in *Parliament and Politics in Scotland*, pp. 211-214; and 'People and Parliament in Scotland 1689-1702', unpublished Ph.D thesis, University of St Andrews (2002), pp. 143-144.

<sup>295</sup> Harris, *Revolution*, pp. 387-390.

<sup>296</sup> Halliday, 'Club,' pp 146-159.

<sup>297</sup> Stephen, *Scottish Presbyterians*, pp. 4-8. M.A. Shukman, 'The Fall of Episcopacy in Scotland, 1688-1691', Unpublished M.Phil (R) thesis, University of Glasgow (2012), pp. 78-124.

<sup>298</sup> Stephen, *Scottish Presbyterians*, p. 7.

<sup>299</sup> Stephen, 'Defending the Revolution', pp. 20-22.

<sup>300</sup> Raffe, 'Episcopalian Polemic', pp. 24-29.



establishment and its supporters in parliament were acutely sensitive to the perceived episcopalian threat, especially when previously excluded groups were admitted to parliament in 1702-1703.<sup>301</sup>

### **Irish dependency**

While a short civil war was necessary to secure the Revolutionary regime in Scotland, a war of reconquest was necessary in Ireland, which was only concluded by the 1691 Treaty of Limerick. William's first Irish parliament, which met in 1692, passed the 'Act of Recognition' confirming his title and Ireland's dependency on the 'Imperial Crown of England'. It was, however, determined to maintain the Restoration land settlement, prevent any repetition of Tyrconnell's 'counter revolution' and address corruption in the Irish administration. It resisted both ratification of the generous terms offered to Jacobites by the Treaty of Limerick and the attempt to recover the cost of the reconquest through additional taxation, deploying the Country argument that the Irish House of Commons had the 'sole right' to initiate supply bills. The ensuing 1695 compromise involved a nominal concession over the sole right issue in return for the limitation of extraordinary taxation and consent to anti-Catholic 'Penal Laws'. Based on wartime precedents, these included Acts exiling Catholic clergy, disarming Catholics and forfeiting the estates of those who were educated or had their children educated abroad.<sup>302</sup>

Although this compromise acknowledged the role of the Irish parliament in providing supply, it did not fundamentally alter Ireland's constitutional dependency on England and its ruling class's reliance on English military support. Court groups (and the English parliament) could therefore ignore complaints over restrictions on Irish trade with England and Irish subjugation to English legislation (notably the 1699 Woollens Act and 1700 Land Resumption) and calls for legislative independence,

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<sup>301</sup> Stephen, *Scottish Presbyterians*, p. 18

<sup>302</sup> Troost, *Stadholder King*, pp. 284-292; C.I. McGrath, 'The Making of a Parliamentary Settlement in Ireland', pp. 606-611; 'Parliamentary Additional Supply', pp. 34-36; and 'Securing the Protestant Interest: The Origins and Purpose of the Penal Laws of 1695', *Irish Historical Studies*, 30 (1996), pp. 25-46.

or alternatively union, as (arguably) requested in the Irish Parliament's 1703 'Representation'.<sup>303</sup>

That Ireland posed no threat to the coherence of the Regal Union was clear from the English Act of Settlement's imposition of the Protestant Succession on Ireland and its acceptance by Anne's first Irish parliament in 1703, which also re-affirmed that Ireland was 'annexed and united' to the 'Imperial Crown of England'.<sup>304</sup>

Without such leverage, neither Court groups nor English parliament were likely to concede to Ireland the legislative independence enjoyed by the Scottish parliament. Indeed, the Irish parliament provided a model for Scottish Country opinion of what it feared the Scottish parliament would become.<sup>305</sup> The dependent status of the Irish parliament and its lack of leverage explains why the Union was confined to Scotland and England.

### 'Mere' personal union?

The Revolution (and the ensuing war) therefore created tensions within the Regal Union which threatened its coherence and support the argument that the origins of the Union lie in the Revolution.<sup>306</sup> They did not, however, make the Union inevitable. Indeed, as discussed below, despite these challenges the British monarchy was able to align its component kingdoms in successful pursuit of its geopolitical ambitions in both the Nine Years and Spanish Succession wars.

### Common subjection and loyalty

In common with other composite monarchies, loyalty and service to the person of the monarch gave the Regal Union political coherence, making it unnecessary for the kingdoms to exhibit a shared 'British' identity or for 'British' institutions to exist. In each kingdom, the Officers of State and the

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<sup>303</sup> C.I. McGrath, 'The 'Union' Representation of 1703 in the Irish House of Commons: A case of mistaken identity?', *Eighteenth-Century Ireland*, 23 (2008), pp. 11-35. Compare J. Smyth, "'Like Amphibious Animals": Irish Protestants, Ancient Britons', *The Historical Journal*, 36 (1993) pp. 785-797, which argues for strong Irish Protestant interest in union, citing *CSPD 1703-1704*, Southwell to Nottingham, 4 October 1703 p. 144.

<sup>304</sup> Boyer, *Annals*, 2, pp. 84-85.

<sup>305</sup> [Ridpath], *Proceedings*, pp. 304-306.

<sup>306</sup> Harris, *Revolution*, p. 495; Mason, 'Debating Britain', p. 21.

bureaucracies were the 'Queen's (or King's) servants' whose primary obligation was to the monarch, not to a parliament, nor an impersonal 'state', and government was the monarch's 'business'. The Association Movement that responded to the 1696 Jacobite Assassination Plot with pledges of loyalty to William was therefore common to the whole British monarchy, including the Plantations.<sup>307</sup> Although use was made of the concept of 'Britain', this was not necessarily helpful given English common lawyers' objections and its association in Scotland with English claims to overlordship of the whole island.<sup>308</sup> When the union commission asserted in 1702 that the kingdoms were 'united in allegiance and loyal subjection' to the person of the monarch,<sup>309</sup> this was not an empty formula. It expressed political reality and was behind the striking claim by the anonymous author of the anti-Union 1706 tract '*Essay upon the Union*', that England and Scotland had already been 'in an absolute incorporated union' ever since the Union of the Crowns, based on the common allegiance owed to the monarch.<sup>310</sup> This was not unique: the same claim was made by Hodges in another anti-Union polemic:

the Subjects of England and Scotland, have, ever since the Union of the Two Crowns been, by right, stated in an absolute incorporated Union...intituled to an unlimited free share of all Manner of Trade and other Privileges belonging to both Nations by reason of their joint Allegiance.<sup>311</sup>

It was also the basis for the decision in Calvin's case. Importantly, therefore, loyalty shown by Scottish politicians to the monarch did not imply subservience to England: at least, not until Darien.

The Regal Union's success in the conflict with Louis XIV testifies to its essential geopolitical coherence. If funding was overwhelmingly provided by England, Scotland supplied substantial

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<sup>307</sup> Pincus, *1688*, pp. 467-468.

<sup>308</sup> Mason, 'Debating Britain', p. 9; C. Kidd 'Protestantism, Constitutionalism and British identity under the later Stuarts', in B. Bradshaw and P. Roberts (eds.) *British Consciousness and Identity: The Making of Britain, 1533-1707* (Cambridge, 1998) p. 322.

<sup>309</sup> *APS*, xi, Appendix, p. 146.

<sup>310</sup> Cited by Stephen, *Scottish Presbyterians*, pp. 188-190.

<sup>311</sup> [Hodges], *Essay on Union*, p. 18. See also Hodges' discussion of this point at pp. 6-10 and pp. 17-18.

manpower.<sup>312</sup> In the Nine Years War, Louis XIV was fought to a standstill and in the Spanish Succession war he suffered his first comprehensive defeat. The great victories of Blenheim, Ramillies, Barcelona and Gibraltar were all achieved *before* the negotiation of the Union. Indeed, the unifying effect of service to the person of the monarch was best expressed in the prerogative spheres of military, naval or diplomatic service.<sup>313</sup>

The British monarchy's requirement for coherence was, however, limited. Its principal concerns were geopolitical and domestic security and the funding of its wars. It was not interested in, nor capable of, the routine administration of England, still less Scotland.<sup>314</sup> Although carried out in the monarch's name, this was extensively delegated to regional office holders.<sup>315</sup> In Scotland it was supervised by the Scottish Officers of State and Privy Council and in Ireland by the Lord Lieutenant's administration.

### **Royal power**

The monarch continued to exercise very extensive prerogative rights after the Revolution. These included the conduct of foreign policy and war, appointments to ministerial, ecclesiastical (in England only), military, naval, judicial and administrative office, the creation of peers, the calling, proroguing and dissolution of parliaments (subject in England after 1694 to the Triennial Act) and the day-to-day conduct of government through proclamations. In both kingdoms, legislation required royal assent to become law, and in England at least the monarch had an undoubted right to withhold assent.<sup>316</sup> There were also less confrontational ways to veto legislation. Prorogation, which terminated a session of parliament, caused all legislation that had not received assent to lapse. For example, the English parliament's unilateral attempt to close an egregious tax loophole in the

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<sup>312</sup> Childs, *British Army of William III*, p. 115; [Fletcher], *Discourses, First Discourse*, pp. 19-20.

<sup>313</sup> Whatley, *Scots & Union*, pp. 96-97.

<sup>314</sup> Below, p. 175.

<sup>315</sup> G. Southcombe and G. Tapsell, *Restoration Politics, Religion & Culture* (Basingstoke, 2010), p. 97.

<sup>316</sup> In Scotland it was challenged by radicals such as Fletcher: [Ridpath], *Proceedings*, pp. 262-268.

provisions of the Union in the period between its ratification and effective date was effectively vetoed by prorogation.<sup>317</sup>

The exercise of prerogative rights enabled the Restoration and post-Revolution monarchs to style themselves as Kings of 'Great Britain', as James VI & I had done. This title was no empty brag and was recognized by rival polities. For example, the 1670 Treaty of Madrid,<sup>318</sup> which was central to the diplomatic *imbroglio* over Darien, was concluded between the crowns of 'Great Britain' and Spain, while Louis XIV recognized William as King of Great Britain in the Treaty of Rijswijk. The union flag devised by James VI & I flew over forts in the American plantations.<sup>319</sup> All treaties of alliance brought before the English Commons in 1702 referred to the King of Great Britain, and war was declared by proclamation on 2 May 1702 by 'Her Britannic Majesty' in all her kingdoms, dominions and countries.<sup>320</sup>

Nevertheless, while foreign policy and war were carried on in the name of the King or Queen of Great Britain, the domestic legal reality was that money for war was overwhelmingly supplied by the English parliament, which was inevitably interested in their conduct. Further, the prerogative conduct of foreign policy could not avoid interaction, and sometimes conflict, with trade issues, which necessarily involved the parliaments, especially the English parliament. As discussed in Chapter 6,<sup>321</sup> this could result in diplomatic embarrassment and the frustration of Court group objectives. However, the shortfall between royal pretension and legal reality was far from unique to Great Britain. For example, when in 1694 William's ambassador, Stanhope, pressed the Spanish

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<sup>317</sup> Harris, *General in Winter*, pp. 206-207.

<sup>318</sup> 'A treaty for the composing of differences, restraining of depredations, and establishing of peace in America, between the crowns of Great Britain and Spain'.

<sup>319</sup> *CSPC*, volume xv, Number 394, Agents for New York to the Council of Trade and Plantations, 13 November 1696, p. 212.

<sup>320</sup> *CJ*, xiii, 9 January 1702, pp. 657-664; 2 May 1703, pp. 869-870.

<sup>321</sup> Below, pp. 188-191.

Court to prohibit trade between Valencia and France, he was told that this was impossible because Carlos II had only the *name* of King in the Crown of Aragon, of which Valencia was a part.<sup>322</sup>

The British title was also employed domestically. For example, in matters concerning the exercise of the prerogative, such as the creation of Scottish peerages, the monarch was consistently described as King or Queen of Great Britain. By contrast, in matters relating to the English and Scottish parliaments and legal systems, they were scrupulously referred to as King or Queen of England or Scotland.<sup>323</sup>

The tension between the parliaments' expanding role after the Revolution, party politics and the considerable 'reserves of power still vested in the crown' undoubtedly gave post-Revolution politics 'unique features.'<sup>324</sup> However, monarchical authority remained the 'central core' of the constitution and the 'essential constituent not merely of the machinery of government but of the pattern of politics.'<sup>325</sup> Furthermore, there was no intrinsic or necessary conflict between the monarchy and parliament, and the basic role of parliaments remained to advise, present grievances for redress and grant extraordinary revenues when necessary. Moreover, royal power also operated through non-parliamentary channels such as the Church (after 1690, in England and Ireland only), the Court (in its institutional sense), the judiciary, the bureaucracy,<sup>326</sup> and the armed forces. Consequently, as discussed below, Court groups based on royal confidence and possessing the ability to manage the parliaments could potentially exercise enormous political power.

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<sup>322</sup> Storrs, *Resilience*, p. 206, citing Stanhope to Russell [1694], Kent RO/U1590/043/2. See also A. Stanhope, *Spain under Charles II, Or, Extracts from the correspondence of the Hon. Alexander Stanhope, British minister at Madrid 1690-1699, From the Originals at Chevening* (London 1840), Stanhope to his son, 8 July 1699, p. 142.

<sup>323</sup> For example, compare *APS*, xi, pp. 117-124 with p. 29.

<sup>324</sup> Holmes, *British Politics*, pp. 414-415.

<sup>325</sup> Holmes, *British Politics*, pp. 194-195, p. 208.

<sup>326</sup> In principle, these were outside parliamentary scrutiny, although to the extent they relied on parliamentary funding after the 1697 English Civil List Act, some oversight could not be avoided. Moreover, the presence of clergy, and Court, civil and military officials in the parliaments diluted the non-parliamentary character of these channels.

## The Court

Enduring monarchical power after the Revolution requires a re-evaluation of the role of the post-Revolution, or 'Augustan', Court as a political institution. Scholarly interest in 'Court studies' has broadly focused on organizational structures, physical locations and cultural spectacle. In this context, the Court's political function has been interpreted principally as an arena for the exercise of patronage and the staging of political ritual,<sup>327</sup> rather than as a setting for the highest level of political decision-making. Consequently, while the political role of overlapping public spheres outside parliament has attracted recent scholarly attention, the political role of the post-Revolution monarchy and Court has been comparatively neglected, especially in terms of the development of high-level decision-making.<sup>328</sup>

This has been accompanied by the representation of Charles II's Court as the apogee of Court political and cultural leadership in Britain. In this narrative, the Augustan Court is transitional in the evolution of 'limited parliamentary monarchy' so that by 1714 its political function was in a state of 'near irrelevancy.' Parliament, the army, and the City drew the ambitious away from Court, while the financial constraints imposed by war, the destruction of Whitehall Palace, and the Queen's illnesses and retiring personality made Court life unattractive. Consequently, the Court ceased to be the centre of national cultural and political life that it had been under Charles II,<sup>329</sup> despite Anne's efforts attempts to revive it through pageantry and ritual.<sup>330</sup>

This narrative of inexorable decline requires substantial qualification. Neil Cuddy has argued that the 'outsourcing' of the Court's cultural role began under Charles II, when the Court, shorn of the prerogatives enjoyed by the pre-Civil Wars monarchy, 'joined fashionable London.'<sup>331</sup> Andrew Barclay has shown that far from presiding over a straitened Court and rejecting the trappings of

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<sup>327</sup> See H. Smith's reviews of scholarly Court studies, *The Historical Journal*, 49 (2006), pp. 1229-1238.

<sup>328</sup> H. Smith, *Georgian Monarchy: politics and culture, 1714-1760* (Cambridge, 2006), p. 193.

<sup>329</sup> Bucholz, *Augustan Court*, p. 11, p. 34, and pp. 247-248.

<sup>330</sup> R.O. Bucholz, 'Nothing but Ceremony: Queen Anne and the Limitations of Royal Ritual', *Journal of British Studies*, 30 (1991), pp. 288-323.

<sup>331</sup> N. Cuddy, 'Reinventing a monarchy', p. 70.

personal monarchy, William III reversed James's retrenchment and sought to match the splendour of Charles II's Court. While discarding 'touching' for the 'King's Evil', William continued the ceremony of foot-washing on Maundy Thursday and sought to promote a new, 'godly' Court culture in contrast to Caroline libertinism. He also indulged in public spectacle, staging a triumphal entry into London after concluding the Treaty of Rijswijk.<sup>332</sup> In a recent study, James Winn has argued that Anne's Court remained an important centre for art and culture which was successfully deployed for political ends,<sup>333</sup> while Hannah Smith has challenged the idea that the monarchy was in social and cultural retreat.<sup>334</sup> Indeed, the political importance of the early Georgian Court was recognized in the last century by scholars with such differing perspectives as Plumb and Clark.<sup>335</sup> Even when its direct political function disappeared, it long retained its importance as a venue for the negotiation and practice of patronage, display and politics.<sup>336</sup>

Court ceremony continued to provide a powerful visual means of making political statements in an acutely status conscious age. For example, Anne affirmed her rejection of the Junto Whigs and support for the High Tories by publicly depriving Wharton of his white staff of Court office (as Comptroller of the Household) and handing it to Seymour.<sup>337</sup> The Court also continued to provide a valuable physical space in which subjects could meet the monarch and ministers, and where politicians could meet each other to transact political business. For instance, 'Secretary' Johnstone was a regular attendee at Anne's Court and provided his Scottish political allies with a steady stream of intelligence based on his meetings there with politicians and foreign envoys.

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<sup>332</sup> A. Barclay, 'William's Court as King', in D. Onnekink, and E. Mijers (eds.), *Redefining William III: the Impact of the King-Stadholder in International Context* (Aldershot, 2006), pp. 247-263. H. Smith, 'Henry Purcell and Charles Sedley's 1692 birthday ode for Mary II', in J. Champion, J. Coffey, T. Harris, and J. Marshall (eds.) *Politics, Religion and Ideas in Seventeenth-and Eighteenth-Century Britain: Essays in Honour of Mark Goldie* (Woodbridge, 2019) pp. 219-237.

<sup>333</sup> J.A. Winn, *Queen Anne, Patroness of Arts* (Oxford, 2014).

<sup>334</sup> Smith, *Georgian Monarchy*, pp. 212-213 and p. 246

<sup>335</sup> Plumb, *Stability*, pp. 105-107; Clark, *Revolution & Rebellion*, pp. 80-81 and pp. 86-91.

<sup>336</sup> H. Smith, 'The Court in England 1714-1760: A declining Political Institution?' *History*, 90 (2005), pp. 40-41.

<sup>337</sup> R.O. Bucholz, 'Going to Court in 1700: a visitor's guide', *The Court Historian*, 5 (2000), p. 185.



There is also abundant evidence for the continuing importance attached by contemporaries to direct access to the monarch in the physical setting of the Court, whether by way of public ceremonial or private audience. For example, in 1702 Scottish opposition politicians sought to explain their secession from the Scottish parliament by delivering an address to Anne.<sup>338</sup> Although she refused publicly to receive their address, she subsequently had extensive private meetings with them,<sup>339</sup> as she did again in in March 1704.<sup>340</sup> Accordingly, Bedchamber positions conferring *confidential* access to the monarchs, especially in their private apartments or ‘closet’ were vitally important. On her accession, Anne therefore delighted in replacing Portland as Groom of the Stole with Lady Marlborough, her friend and *confidante*, making her additionally Keeper of the Privy Purse and First Lady of the Bedchamber. The contemporary consensus that these positions entrenched the power of the Duumvirs proved ultimately to be mistaken, but not because they were unimportant. Lady Marlborough’s fall from favour in fact underlined the continuing political importance of Court and especially Bedchamber, office and the Queen’s favour. Her long absences from Court allowed the development of relationships between the Queen and other Bedchamber personnel, notably Abigail Masham, providing the Duumvirs’ political opponents with opportunities for confidential access to the Queen.<sup>341</sup> Further, her remorseless Whig advocacy not only destroyed her own relationship, but also undermined the Duumvirs’ standing with Anne. Marlborough was therefore intolerant of any competing private influence with the Queen, and as early as August 1708 was considering how to remove Abigail.<sup>342</sup> Ultimately, in January 1710, he was to try to procure a parliamentary address to demand her removal.<sup>343</sup>

The Court therefore remained ‘for the highest reaches of politics’ the ‘most important of institutions’, and the prime arena for ministerial intrigue and manoeuvre notwithstanding the

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<sup>338</sup> Boyer, *Annals*, 1, p. 65.

<sup>339</sup> *MGC*, Godolphin to Lady Marlborough, 17 October 1702, pp. 131-132; *Luttrell*, 15 October, p. 225.

<sup>340</sup> *Marchmont*, iii, Baillie to Lady Grisell, 9 March 1704, pp. 263-267.

<sup>341</sup> Bucholz, *Augustan Court*, p. 154.

<sup>342</sup> *MGC*, Marlborough to Lady Marlborough 26 July and 29 July 1708, p. 1052 and p. 1055.

<sup>343</sup> Gregg, *Queen Anne*, pp. 302-303.

enhanced role of parliaments after 1688-1689. It continued to be the source of royal favour bestowing high office and civil and military places, and to provide the setting for formal occasions such as audiences and the arrivals and departures of foreign ambassadors, and for exchanging political gossip.<sup>344</sup> It also continued to provide the principal channels for communications between the monarchs and their closest advisers for high-level decision-making purposes. Its enduring political importance is illustrated by the fact that senior Court officers, notably the Lord Chamberlain, Lord Steward and Master of the Horse, might expect (but could not depend on) attendance at 'Cabinet Council' meetings.<sup>345</sup> These offices commanded extensive powers of patronage, and conferred significant political power. For example, the only office, albeit briefly, held by the Earl of Sunderland, William's 'minister behind the curtain', was that of Lord Chamberlain. Thirteen years later, the 'ministerial revolution' of 1710 which overthrew the Duumvirs began with Shrewsbury's replacement of Kent as Lord Chamberlain.<sup>346</sup>

Confusion over the Court's political functions arises because contemporaries used the word 'Court' in different ways. It could denote any group employed by or associated with the monarch, ministers appointed by the monarch, salaried office holders, the parliamentary supporters of the monarch's administration or the physical location occupied by the monarch and their household.<sup>347</sup> For exponents of Country issues, the 'Court' was a generic term to denote royal government, frequently in a pejorative sense. In Scottish Country discourse at the end of William's reign, it denoted the English ministry of the day.<sup>348</sup> It was therefore a flexible expression with a variety of overlapping meanings and connotations based on a deeply monarchical society.<sup>349</sup> In particular, the 'Court' continued after the Revolution to be contemporary shorthand for the highest level of political

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<sup>344</sup> Plumb, *Stability*, p. 109; J.C.D. Clark, *Revolution and Rebellion: state and society in England in the seventeenth and eighteenth centuries* (Cambridge, 1986), p. 80.

<sup>345</sup> The Cabinet's function is discussed in pp. 118-121 below.

<sup>346</sup> G.S. Holmes (ed. W.A. Speck) 'Robert Harley and the Ministerial Revolution of 1710', *Parliamentary History*, 29 (2010), pp. 275-307.

<sup>347</sup> Bucholz, *Augustan Court*, p. 2.

<sup>348</sup> Ferguson, 'Imperial Crowns', p. 23.

<sup>349</sup> E. Cruickshanks, 'Religion and Royal Succession: The Rage of Party', in C. Jones (ed.) *Britain in the First Age of Party, 1680-1750: Essays presented to Geoffrey Holmes* (London, 1987), p. 39.

authority responsible for directing ‘business’ throughout the three kingdoms.<sup>350</sup> In this sense, it comprised both the monarchs and their ‘inner circle’ of trusted advisers. It has continued to be employed in this way by modern historians.<sup>351</sup> However, as discussed above, in order to minimize confusion with the Court as an institution and location, this study employs the phrase ‘Court groups’ to describe collectively monarchs and their closest advisers.<sup>352</sup>

This is not, however, to suggest that such groups were necessarily stable, well-defined and coherent, being dependent on the vagaries of royal personality, confidence and favour. Indeed, Charles II notoriously sought to play his advisers off against each other and William was similarly reluctant to commit himself to any one group or individual. Powerful and enduring Court groups were not, therefore, characteristic of their reigns.

Nevertheless, the Court as an institution and Court groups both delivered *de facto* coherence to the Regal Union. Because it was centred on the person of the monarch, the Court was located in England, and there was no separate Scottish court. Although James held a Scottish court when he served as Charles’ High Commissioner during the Exclusion Crisis,<sup>353</sup> and the monarch’s Irish viceroy, the Lord Lieutenant, had a separate court,<sup>354</sup> these were both subordinate to the King’s Court, which functioned as a *British* Court, the source of favour and high office in both kingdoms. Scottish peers held Bedchamber appointments, Scottish ministers attended Court regularly to agree Scottish policy, and Scottish politicians came to lobby, for example over Darien.<sup>355</sup> Indeed, when William died, there

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<sup>350</sup> For example, this usage is evident throughout *Jerviswood*, including the accounts of the Lords ‘state of the nation’ debates: Johnstone to Baillie, 2, 7 and 12 December 1704, pp. 15-17 and p. 22. Indeed, different cyphers were used to denote the English and Scottish ministries and the Court: see pp. 197-203.

<sup>351</sup> This usage is implicit in Holmes, *British Politics*, pp. 414-415. The discussion at pp. 347-364 concerns the Court *interest* in the House of Commons. The conflict between ‘the Court’ and the Junto is also central to Riley’s narrative, for example, *Union*, pp. 73-75. Riley’s ‘Scottish Court,’ for example, *Union*, pp. 49-53, is the Scottish ‘Court Party’.

<sup>352</sup> Above, pp. 58-59.

<sup>353</sup> Hugh Ouston, ‘“From Thames to Tweed departed:” the Court of James, Duke of York in Scotland, 1679-82’, in *Stuart Courts*, pp. 266-267.

<sup>354</sup> Toby Barnard, ‘The Viceregal Court in later 17<sup>th</sup> Century Ireland’, in *Stuart Courts*, pp. 256-262.

<sup>355</sup> Watt, *Price of Scotland*, p. 176.

were sufficient members of the Scottish Privy Council at Court to administer the Scottish coronation oath to Anne.<sup>356</sup>

Within Court groups, high-level decision-making processes were flexible, characterized by an absence of formalities, confidential access to the monarch and limited ministerial specialization, and driven by the personality and abilities of the monarch. There was no British equivalent of, for example, the Spanish and French Councils of State, to which powers over policy and patronage were delegated<sup>357</sup> or of the Austrian Habsburg *Hofkreigsrat*, which co-ordinated the Emperor's wars. Although an attempt was made in 1660-1667 to operate a Scottish Council in London,<sup>358</sup> there was no enduring conciliar system such as Spain's, where councils existed in Madrid for Aragon, Castile, the Indies and Italy.<sup>359</sup> Charles II preferred to exercise control over Scotland and Ireland through trusted individuals whose authority derived from the strength of their personal relationship with him.<sup>360</sup> For example, Lauderdale and his brother James served as his personal representatives or 'High Commissioners' in the Scottish parliament,<sup>361</sup> while Ormonde, his companion in exile, was Lord Lieutenant of Ireland for much of his reign. James followed the same personal approach, employing the Drummond brothers, Perth and Melfort, in Scotland, and Tyrconnell in Ireland.

The very different circumstances of William's reign, involving his annual absences on campaign and the demands of large-scale warfare, necessitated the development of an English 'Cabinet council' to co-ordinate diplomacy and the armed forces.<sup>362</sup> Nevertheless, government processes at the highest levels remained informal and personal. For example, William employed Portland to co-ordinate his composite polity (which included the Dutch Republic as well as the Regal Union) and undertake sensitive diplomatic missions. He held no Office of State, only the Bedchamber office of Groom of

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<sup>356</sup> Boyer, *Annals*, 1, p. 3.

<sup>357</sup> Cuddy, 'Reinventing a monarchy', p. 72.

<sup>358</sup> Jackson, *Restoration Scotland*, p. 76.

<sup>359</sup> Williams, *Ancien Regime*, pp. 89-90.

<sup>360</sup> Jackson, *Restoration Scotland*, p. 97. See Mason, 'Debating Britain', pp. 6-7, for the contemporary association of such councils with 'provincial' status.

<sup>361</sup> Mackintosh, 'Arise King John', pp. 163-183.

<sup>362</sup> J. Carter, 'Cabinet records for the reign of William III', *EHR*, 78 (1963), pp. 97-104.

the Stole, which gave him unlimited confidential access to the King and allowed him to control access by others.<sup>363</sup> Portland in turn used Carstares, who held Court office as Royal Chaplain, to communicate directly with key individuals in the Scottish administration, bypassing formal channels through the Scottish under-secretary in London and the Scottish Secretaries of State.<sup>364</sup>

Furthermore, direct contact in London between Court groups and key Scottish ministers became regular practice after the Revolution when more frequent Scottish parliaments were held and 'schemes' for their management and 'Instructions' for the High Commissioner required development in advance of their sitting.<sup>365</sup> When specific Scottish problems arose, Court groups met the principal Scottish ministers at Court to consider them, for example in 1695-1696 regarding the fallout from the establishment of the Africa Company.<sup>366</sup>

Inevitably, given the Court's English location and England's dominance of the Regal Union, Court group composition overlapped very significantly with English ministries. Formal communication with English Officers of State, the Privy Council and government apparatus was through the Secretaries of State, but the personal nature of monarchical government encouraged informal contacts and decision-making processes. It was therefore easy for Scottish Country polemicists to portray Court groups as *English*, but they were not exclusively so. In William's reign, he himself and his favourites, Portland and later, Albemarle, were Dutch, while Carstares' nickname<sup>367</sup> testifies to his considerable influence over Scottish affairs. Although, as discussed in Chapter 4, Anne's closest advisers were English, they relied extensively on Seafeld for Scottish advice, while Prince George brought an important European dimension. George I's closest advisers of course included a powerful German contingent.<sup>368</sup>

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<sup>363</sup> D. Onnekink, "'Mynheer Benting now rules over us": the 1st Earl of Portland and the Re-emergence of the English Favourite, 1689-99', *EHR*, 121 (2006), pp. 693-713.

<sup>364</sup> D. Onnekink, 'Portland and Scotland', pp. 233-238; Riley, *King William*, p. 130.

<sup>365</sup> For example, *Jerviswood*, Roxburgh to Baillie, 5, 10 and 27 February, 1705, p. 43, p. 46 and pp. 49-50.

<sup>366</sup> NLS, MS 7019, f. 154, Annandale to Tweeddale, 9 December 1695; NLS MS 14408, f. 430, 5 December 1695.

<sup>367</sup> 'Cardinal Carstares'.

<sup>368</sup> Plumb, *Stability*, pp. 106-107. J.M. Beattie, *The English Court in the Reign of George I* (Cambridge, 1967), pp. 219-248.

## Conclusion

The Regal Union was a typical contemporary polity with multiple legislatures, tax and legal systems, and economic and confessional divisions. Like other dynastic polities, it was co-ordinated through supra-regnal Court groups and possessed sufficient coherence to participate successfully in great power geopolitics. Like all such polities, its existence ultimately depended on the survival of the dynasty and the alignment of the rules of succession between its component parts.

The Revolution did not alter the basic construct of the Regal Union as a polity based on the subjection of multiple kingdoms to a common monarch. There was no abrupt transformation whereby government ceased to be royal and began to be parliamentary. However, the wars which followed the Revolution obliged the monarch to share power with the English parliament and English ministers to a much greater extent than before. This gave Court group control over Scotland a much greater English flavour, and facilitated their conflation with England, an association confirmed by Darien. While the importance of the English parliament had always been implicit in the Restoration Settlement, the Revolution made it explicit by ending the pro-French isolation policy pursued by Charles II and James and committing the Regal Union to a war of unprecedented scale.

Recognizing that Scotland and England were already under common control and that within the Regal Union Scotland only possessed 'a name and a poor independent sovereignty'<sup>369</sup> has important implications for understanding the origins of the Union. Firstly, it did not mark the end of Scottish 'independency'. As Fletcher told the Scottish parliament in May 1703, this had *already* been lost: 'All our affairs since the Union of the Crowns have been managed by the advice of English ministers and the principal offices of the kingdom filled with such men, as the Court of England knew would be subservient to their designs...'<sup>370</sup>

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<sup>369</sup> *Jerviswood*, Roxburgh to Baillie, 28 November 1705, pp. 137-139.

<sup>370</sup> [A. Fletcher] *Speeches by a Member of the Parliament Which began at Edinburgh, the 6<sup>th</sup> of May 1703, Speech II* (Edinburgh, 1703) pp. 6-7.

The Union's opponents were therefore operating within the context of an *existing* union. The next chapter therefore concludes the exploration of the *nature* of the Union by examining the changes which it made to this existing union.

Secondly, recognition that Court groups had a supra-regnal role means that the Union should not be interpreted in the context of a simple bilateral conflict between 'England' and 'Scotland' and their institutions, and that Court group perspectives must be taken into account. Their role, autonomy and objectives are therefore considered in Chapters 4, 5 and 6.

## Chapter 3 What the Union did (and what it did not)

### Introduction

This chapter continues the exploration of the nature of the Union for the purposes of answering the first of the three inter-connected questions posed in Chapter 1.<sup>371</sup> Specifically, it examines the Union's detailed provisions to establish the changes which it made to the existing relationships between the component kingdoms of the Regal Union.

It begins by clarifying the Union's legislative mechanics. This is followed by a description of its detailed provisions, and a discussion of contemporary English and Scottish reactions. It then proceeds to evaluate the nature of the Union and consider its implications from a Court group perspective. It concludes that the Union did not mark an extension of *English* control over Scotland but was rather a modification of the existing system of *Court group* control over both kingdoms. It was confined to legislative and economic union and otherwise preserved, and indeed entrenched, confessional and jurisdictional differences. Ireland was excluded from the Union because as an English dependency, it had no legislative independence. Finally, it introduces the second question posed in Chapter 1, that of agency for the Union.

### Act or Treaty?

At the heart of the Union was a Treaty negotiated by commissioners for England and Scotland appointed by the Queen under Acts of the respective parliaments. The relevant English Act was the so-called 'Alien Act' whose penal provisions, imposing economic sanctions on Scotland if it did not legislate for the Protestant Succession, were repealed at the end of 1706, leaving only those enabling the Queen to appoint union commissioners to negotiate with Scotland. The corresponding

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<sup>371</sup> Above, pp. 34-35.



Scottish Act<sup>372</sup> expressly excluded from the commissioners' remit any alteration of church worship, discipline and government. Arguably this did not preclude the inclusion of provisions in the treaty to protect the existing forms of church-government as 'fundamentals'. No such provisions were made, however, because the English commissioners advised the Scots that this would 'give a handle to the Tories and High Church people'.<sup>373</sup> Nevertheless, as the Queen emphasized, by letter, such protection was reserved to the Scottish parliament, as was the method for choosing Scottish representatives in the union parliament.<sup>374</sup> Both the Scottish and English Acts provided that any resulting treaty would have no force without ratification by Acts of parliament in the respective kingdoms.

The Treaty's ratification was considered first by the Scottish parliament, which made a number of amendments, or 'Explanations'. In accordance with the Queen's letter, it also passed in November 1706 an 'Act for the Security of the true Protestant Religion and Government of the Church of Scotland as by law established' (the 'Kirk Act'). This Act and the Explanations were expressly to be treated as integral to the treaty by the Scottish Ratification Act,<sup>375</sup> which was conditional on their acceptance by the English parliament. The Scottish parliament also passed an 'Act Settling the manner of Electing the Sixteen Peers and Forty-Five Commoners to Represent Scotland in the Parliament of Great Britain'<sup>376</sup> (the 'Act of Constitution'), which under the Explanation for Article 22 was similarly to be treated as an integral part of the Treaty. The Kirk Act also provided that the English parliament could legislate to secure the Church of England, which it duly did.<sup>377</sup> As the English Ratification Act<sup>378</sup> accepted the Scottish conditions, this English Church Act, together with

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<sup>372</sup> *APS*, xi, p. 295.

<sup>373</sup> *CSP*, Stair to Carstares, 26 April 1706, and Leven to Carstares, 27 April 1706, pp. 750-752; *HMC Portland*, iv, Stair to Harley, 12 November 1706, p. 338.

<sup>374</sup> *APS*, xi, 31 July 1706, p. 306.

<sup>375</sup> 'Act Ratifying and Approving the Treaty of Union of the Two Kingdoms of Scotland and England', 1707 Anne, c. 7: *APS*, xi, pp. 406-414.

<sup>376</sup> *APS*, xi, pp. 425-427.

<sup>377</sup> 6 Anne, c. 8, 'Act for securing the Church of England as by Law Established'.

<sup>378</sup> 6 Anne, c. 11, 'Act for an Union of the Two Kingdoms of England and Scotland'.

the Scottish Kirk Act and Act of Constitution, comprised the Union *as well as* the Treaty and the Explanations.

## The terms of the Union

The Treaty itself contained 25 Articles whose core provisions were the simple statements in Articles 1-4. Under Article 1, from 1 May 1707 the two kingdoms were united into a single kingdom, 'Great Britain'. Under Article 2, the succession to the crown of this new kingdom was to follow the 1701 English Act of Settlement. Papists or those married to Papists in the line of succession were to be treated as dead, following the provisions of the English Bill of Rights. Article 3 provided for a single parliament for the new kingdom, replacing the two separate parliaments of England and Scotland. Under Article 4, all subjects of Great Britain were to enjoy free trade 'within Great Britain and its Plantations and Dominions', and to share the same 'Rights, Privileges and Advantages', subject to express exclusions. These Articles comprise the bargain at the heart of the Treaty: Scotland was to accept the Protestant Succession and legislative union, while England was to grant Scotland free trade, including access to the Plantations, from which it had hitherto been excluded by the Navigation Acts. The link between trade and succession was made explicit by the Scots commissioners in both the 1702-1703 negotiations<sup>379</sup> and 1706 negotiations.<sup>380</sup>

The remaining Articles fell into two broad, overlapping categories. The first dealt at length with the immediate practical implications of the core provisions, while the second provided for important carve-outs from the authority of the new parliament. Both were necessary because although the heads of the bargain were, as Anne put it in 1702, 'so obvious', its details raised enormous practical difficulties, as Seafield observed to Marchmont earlier that year.<sup>381</sup> Defoe's *History* repeatedly

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<sup>379</sup> BL, Add Ms 61627, Scottish pre-meetings 24 November and 18 December 1702, pp. 66-68.

<sup>380</sup> Boyer, *Annals*, 5, pp. 17-18; Defoe, *History*, p. 119; *1706 Minutes*, 24 April 1706, p. 22.

<sup>381</sup> *HMC Marchmont*, Seafield to Marchmont, 3 March 1702, p. 155.

emphasizes that these difficulties were widely expected to be insurmountable.<sup>382</sup> They chiefly concerned parliamentary representation, taxation, religion, the peerages and law.

In the first category, Article 22 dealt with the establishment of the new parliament of Great Britain. Essentially it was to comprise the existing bicameral English parliament with the addition of 45 Scottish MPs in the House of Commons and 16 Scottish peers in the Lords. The English representative system was implicitly retained for the English members of the British Commons, while the Scottish members were likewise selected according to existing Scottish practice, as modified by the Act of Constitution. This same Act governed the process for the election by Scottish peers of the 16 'representative' peers. Most of the articles in this category, however, concerned the detailed working of the single market created by Article 4. Essentially, the English Navigation Acts, together with the English customs and excise regimes and related English law, were extended to Scotland. Existing Scottish-owned ships were brought within the Navigation Acts by Article 5, even if foreign-built. A common system of customs duties, export subsidies, drawbacks, trade regulation and legal enforcement was established by Article 6, bringing both kingdoms into a customs union, while Articles 7-8 and 10-14 dealt with the establishment of a common excise.

This single market required the harmonization of weights, measures and currency, using English standards.<sup>383</sup> Although as discussed below<sup>384</sup> Scotland's direct taxation burden was capped, Scots were to pay the higher English customs duties and excises on domestic consumption as a consequence of their inclusion in the single market. Furthermore, these duties, because of the hypothecation of English duties to English national debt, would inevitably be applied to discharge such debt contracted before the Union. It had, however, been agreed as a matter of principle in the 1702-1703 negotiations that neither kingdom should be liable for the pre-Union debt of the other.<sup>385</sup> The Scots repeated this

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<sup>382</sup> For example, Defoe, *History*, p. 140. Burnet, too, was a doubter: *Burnet, History*, v, p. 280.

<sup>383</sup> Articles 16 and 17.

<sup>384</sup> p. 100.

<sup>385</sup> BL, Add Ms 61627, meetings 28 and 30 January 1703, pp. 153-158; *APS*, xi, Appendix, pp. 159-160.

demand in 1706.<sup>386</sup> It was also recognized that Scotland was unable to bear English excises at least until the expected benefits of free trade were realized.<sup>387</sup> The Treaty provided for a twofold solution to these conflicting principles, based on the assumption (articulated in Article 14) that Scotland would meet its liabilities for the 'Public Charge and Service' for 1707. Firstly, Scotland was exempted from specific English excises<sup>388</sup> and given specific transitional reliefs<sup>389</sup> which, *inter alia*, preserved existing Scottish domestic protection for its coal and salt producers.<sup>390</sup> Secondly, under Article 15, Scotland was to receive from England compensation payments, or 'equivalents' for bearing existing English customs and excises. These consisted of a lump sum of £398,085 10s and a 'rising equivalent'. The latter comprised the *whole* of the expected increase (attributable both to the higher rates of duty and the anticipated increase in trading activity) in Scottish customs and excise revenues in the seven years following the Union, and thereafter the *proportion* of the increase applied to pre-Union English debt. These sums were to be used, under the supervision of Commissioners appointed by the Queen, firstly to compensate losses sustained by individuals as a result of the Scottish recoinage; secondly to buy out the capital stock of the Africa Company at cost plus 5% annual interest; thirdly to settle the public debt of Scotland; and fourthly to promote specified Scottish industries. Any *new* English customs and excises were to be compensated by further equivalents, determined by the parliament of Great Britain.<sup>391</sup>

Vitally important for contemporaries for reasons of honour and status, and because of the political importance of the English House of Lords<sup>392</sup> and of the Scottish Noble Estate, was the treatment of the two peerages. The problems presented by the separate peerages (and potential solutions) had already been considered by Scottish discourse on incorporating union and were widely understood

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<sup>386</sup> *1706 minutes*, p. 27; Boyer, *Annals*, 5, p 20; Defoe, *History*, p. 123.

<sup>387</sup> *1706 minutes*, 17 May, p. 30; Boyer, *Annals*, 5, p. 22; Defoe, *History*, p. 125.

<sup>388</sup> Articles 10-13, covering paper, parchment and vellum; windows and lights; coals, culm and cinders; and malt respectively. Article 7 capped the duty on Scottish 'tuppenny ale'.

<sup>389</sup> On malt duty for the duration of the war and the English 2/4d. salt duty for seven years (Articles 14 and 8).

<sup>390</sup> C.A. Whatley, *Bought and sold for English gold? Explaining the Union of 1707*, 2nd edition (2001, East Linton), p. 74; and 'Salt, Coal and the Union of 1707: A Revision Article', *SHR*, 66 (1987), pp. 26-45.

<sup>391</sup> Article 14, and Article 8 (if the 2/4d. salt duty were replaced).

<sup>392</sup> Holmes, *Great Power*, pp. 32-33.

before the negotiations began.<sup>393</sup> Tarbat considered this problem more difficult even than that of representation in the Commons, foreseeing the need for a quota and the 'degradation' of election as early as 1702.<sup>394</sup> It was generally recognized by November 1705 that these were the inevitable consequence of union.<sup>395</sup> Accordingly, Article 23 followed Tarbat's solution in providing that Scottish peers would have all the rights of English peers, except the right to sit in parliament and attend trials of peers. These rights would only be available to the representative peers, so that Scottish peers who had sat in the Scottish parliament by right of birth could only sit in the British parliament if elected.

In the second category, Article 9 limited the new parliament's ability to raise direct taxes in Scotland. Whereas Scottish indirect taxation was conformed to the English system (subject to the exceptions and derogations discussed above) and was expected to increase, Scottish direct taxation was relatively unchanged. The Scottish 'cess' or land tax and its collection methods were retained and capped as a proportion of English land tax, so that £48,000 of cess was equated with £1,997,763 8s 4<sup>1</sup>/<sub>2</sub>d of the English tax.

Further, Article 18 provided that while the laws concerning the regulation of trade, customs and excise were to apply to the whole of the new kingdom, existing Scottish laws which were not inconsistent with the Treaty were to continue in force. Although subject to alteration by the new British parliament, such laws concerning 'private Right' were only to be altered in cases of 'evident utility' for Scottish subjects. Most significantly, Article 19 preserved the existing Scottish judiciary and civil and criminal courts of justice (subject to regulation by the new parliament *solely* for the purposes of 'the better administration of justice') and Scottish hereditary justiciary rights; and while subject to the British Exchequer and Admiralty, Scotland retained its own Courts of Exchequer and Admiralty. Additionally,

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<sup>393</sup> [Pitmiddden], *Interest of Scotland*, Essay II, pp. 41-42; [Ridpath], *Discourse*, p. 87.

<sup>394</sup> [Tarbat], *Parainesis*, pp. 16-17.

<sup>395</sup> *Jerviswood*, Roxburgh to Baillie, 28 November 1705, p. 138.

all existing hereditary offices, and the rights and privileges of the Royal Burghs, were explicitly preserved.<sup>396</sup>

Each kingdom had an established church which differed from the other in both church government and liturgical practice.<sup>397</sup> The problems posed by union, however, did not arise from any attempt to combine them. As early as the abortive 1670 union negotiations, when episcopal church government obtained in both kingdoms, it had been recognized that union would not involve confessional union.<sup>398</sup> Rather, the issue was how to persuade the respective churches and their supporters in each parliament that union would not undermine their status. Anglicans already convinced that the Church was 'in danger' from Dissent feared further erosion of the Church of England's authority by an alliance of Whigs and presbyterian Scots. Similarly, Scottish presbyterians feared the undermining of the Revolution's church settlement through the introduction of toleration for episcopalians by a union parliament dominated by English peers, bishops and representatives. There were important issues of principle too: for example, those presbyterians who upheld the ongoing obligations of the Covenants objected to the presence of bishops in the new kingdom's parliament, and to the perpetuation of the English Test Acts.<sup>399</sup>

As noted above,<sup>400</sup> the Treaty itself avoided any reference to confessional matters. It has been argued that this omission was a mistake, inasmuch that it allowed concern in presbyterian circles to build up a head of steam in opposition to the Union.<sup>401</sup> Instead, the Scottish parliament was invited to provide for the security of the presbyterian settlement. This it did with its Kirk Act, whose provisions reduced (without eliminating) presbyterian concerns. It provided that the 1689 Confession of Faith and presbyterian church government established pursuant to the Claim of Right would 'remain and

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<sup>396</sup> Articles 20-21.

<sup>397</sup> Above, p. 53.

<sup>398</sup> BL, Add Ms 61625 A +B and 61626 A+B; C. Jackson, 'Anglo-Scottish Union Negotiations of 1670', in T. Claydon and N. Corns (eds.) *Religion, Culture and National Community in the 1670's* (Cardiff, 2011), p. 36.

<sup>399</sup> Stephen, *Scottish Presbyterians*, pp. 41-42 and pp. 54-56.

<sup>400</sup> pp. 95-96.

<sup>401</sup> Stephen, *Scottish Presbyterians*, pp. 66-75.

continue unalterable' and that presbyterianism would be the sole form of Scottish church government. It also exempted Scots within Scotland from the application of any oath or test incompatible with presbyterianism and obliged Anne's successors to take an oath to uphold and protect the established Scottish church. However, the most important provision for the purposes of reassuring presbyterian opinion was that making the Kirk Act a 'fundamentall and essentiall condition of treaty or union for all time coming'. Because the Scottish Ratification Act imported the terms of this Act into the Treaty as a condition of ratification, and the English Ratification Act accepted all the Scottish conditions, the presbyterian settlement became a 'fundamental' of the Union. The corresponding English Act provided that the Acts establishing the Restoration Anglican settlement should last 'for ever' and that the Queen's successors should swear to uphold and protect them. Like the Scottish Act, its most important provision for the purposes of reassuring Anglicans was that the Act 'shall for ever be holden and adjudged to be a fundamental and essential part of any treaty of union to be concluded between the two said kingdoms'. The new kingdom of Great Britain therefore emerged with two established churches, each professing the 'true Protestant Religion', whose status was entrenched as a fundamental condition of its existence.

The terms of the Union demonstrate that it was intended to endure and was no mere stop-gap. For example, the single kingdom created by Article 1 was to endure 'for ever after', as was Article 2's exclusion of Papists from its succession. Again, the common customs and excise systems of Articles 6 and 7 were to apply 'for ever'. This was consistent with the Queen's express wish that the union should be 'indissoluable'.<sup>402</sup> Further, the carve-outs from the creation of an 'entire' Union were *also* expressed in terms which demonstrated that they too were intended to endure. For example, the separate religious settlements were expressed as being 'for ever' and 'for all time', while the supreme

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<sup>402</sup> BL, Add Ms 61627, p. 27.

Scottish civil and criminal courts (The Court of Session, and the Court of Justiciary) were preserved 'as now constituted...in all time coming within Scotland'.<sup>403</sup>

### Contemporary assessments

The Union was described by contemporaries as 'compleat', 'entire' or 'incorporating' and was represented as such by both its supporters and its opponents.<sup>404</sup> For example, the English (although not the Scottish) Acts under which union commissioners were appointed called in their preambles for a 'nearer and more compleat union',<sup>405</sup> while Scottish parliamentary protests, popular addresses and polemic against the Union typically objected to it on the basis that it was an incorporating union.<sup>406</sup> The Queen made it clear that she wanted an 'intire' union in her letter to the Scottish parliament read on 11 June 1702,<sup>407</sup> an objective she repeated in her reply to the House of Lords address in 1704 over the 'Scotch Plot' and Scottish succession.<sup>408</sup>

Although the Union's opponents liked to portray incorporating union as the complete integration of Scotland so that it became a mere province of England,<sup>409</sup> this characterization was essentially an over-simplification for polemical purposes. The Scottish commissioners in 1702 understood a 'compleat' union to denote one monarchy with one succession, and one parliament, and one which would involve a 'mutual communication of trade and privileges'.<sup>410</sup> The English commissioners confirmed that a 'communication of trade' was a 'necessary result' of a 'compleat union'.<sup>411</sup> They made exactly the same observation during the 1706 negotiations.<sup>412</sup> The essential features of a

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<sup>403</sup> Article 19.

<sup>404</sup> These terms were used synonymously: for example, *HMC Mar & Kellie*, Stair to Mar, 3 January 1706, p. 243 and correspondence with Cromartie, 17 November 1705-1 January 1706, pp. 238-239 and p. 242.

<sup>405</sup> 1 Anne c. 8 and 3 & 4 Anne, c. 6.

<sup>406</sup> For example, Annandale's protest, *APS*, xi, 18 November 1706, p. 328.

<sup>407</sup> *APS*, xi, p. 14.

<sup>408</sup> *LJ*, xvii, p. 554, p. 557.

<sup>409</sup> Defoe, *History*, p. 226; Clerk, *History*, Fletcher's speech against Article 3, p. 127.

<sup>410</sup> BL, Add Ms 61627, 1 December 1702, pp. 39-40.

<sup>411</sup> BL, Add Ms 61627, 5 December 1702, pp. 44-45.

<sup>412</sup> *1706 minutes*, 25 April, p. 23; Boyer, *Annals*, 5, p. 18.



complete or incorporating union were therefore the integration of parliaments and a mutual 'communication of trade'.

Incorporating union was distinguished by many opponents of the Union from 'federal' union, which was proposed as an alternative in both Scottish parliamentary and public discourse, notably in James Hodges' highly influential pamphlet of September 1706.<sup>413</sup> This was not a new idea in 1706. In February 1705, the Scottish Lord Clerk Register speculated that it might be explored in response to the Alien Act,<sup>414</sup> while Ridpath had already argued for federal union in 1702.<sup>415</sup> It was, however, a relatively new development, as Belhaven recognized in his celebrated speech against the Union in November 1706, when he acknowledged that Scottish attitudes to incorporation 'were much altered of late'.<sup>416</sup> It was a fluid concept. For example, the need for institutional co-ordination of trade and foreign policy was sometimes recognized: Hodges envisaged separate parliaments with a 'treaty' to regulate trade and foreign policy issues and settle the succession.<sup>417</sup> Its core element was the continued existence of a Scottish parliament to protect Scottish religion, rights and liberties from 'English influence'. Accordingly, opponents of the parliamentary resolve to proceed with consideration of the Union treaty on 4 November 1706 asserted that they would support:

an Union with our Neighbours of England as shall unite us intirely and after the most strict manner in all their and our interests of Succession, War, Alliances and Trade...Reserving to us the Sovereignty and independency of our Crown and Monarchie, and immunities of the Kingdom and the constitution and frame of the Government both of Church and State...<sup>418</sup>

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<sup>413</sup> [J. Hodges], *The Rights and Interests of the Two British monarchies inquir'd into and cler'd*. Treatise III (London, 1706). For its impact, see Defoe, *History*, p. 223.

<sup>414</sup> *Jerviswood*, Johnstone to Baillie, 15 February 1705, pp. 46-47.

<sup>415</sup> [Ridpath], *Discourse*, pp. 93-98.

<sup>416</sup> Defoe, *History*, p. 326

<sup>417</sup> [Hodges], *Rights and Interests*, Treatise I (London 1703), p. 3 and pp. 6-7.

<sup>418</sup> *APS*, xi, p. 313. Annandale's first proposed resolve of 4 November 1706.

While the creation of a single parliament was therefore at the heart of differences between the Union's supporters and opponents,<sup>419</sup> it would be misleading to interpret this conflict as a clash between abstract incorporating and federal principles. Even its most enthusiastic supporters recognized that the Union would not in fact be 'fully' incorporating. It was never intended that Scotland should be incorporated into England in the same way that Wales had in 1536-1543. The precedents of 1670 and 1689 did not envisage a union in church government or in legal systems. Cromartie, a notable proponent of incorporation, told Scottish Secretary Mar that 'ane intire union' would not be 'without provisions and exceptions' as 'that were ridiculous for both'.<sup>420</sup> The Union therefore would involve a 'nearer and more complete' union, with the emphasis on the comparative.

Incorporation might have provoked less opposition (aside from principled Jacobites and strict presbyterians, for whom it could never be acceptable) if its parliamentary representation provisions had been more generous to Scotland.<sup>421</sup> The pre-Union unicameral Scottish parliament comprised up to 143 hereditary peers, 92 'barons' or county commissioners, and 67 burgh commissioners. In the union parliament, Scotland only returned 45 MPs out of a total of 558, and 16 peers compared with around 161 English peers (excluding Catholics, minors and exiles).<sup>422</sup> Accordingly, Belhaven's main complaint was not so much that the Union was incorporating but that it was not fair or equal. Likewise, many of the petitions and addresses against the Union professed their commitment to an 'honourable' union: their objection was 'on the terms now before Us'.<sup>423</sup> The Union parliament was evidently a thinly disguised version of the English parliament in which Scottish representation was pitifully small.<sup>424</sup> Apart from the blow to national pride from the loss of the symbols of

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<sup>419</sup> Clerk, *History*, p. 111.

<sup>420</sup> *HMC Mar & Kellie*, Cromartie to Mar, 1 January 1706, p. 242.

<sup>421</sup> Although after conceding Scotland's limited land tax exposure, it was difficult for the English to accept additional Scottish representation over the 38 originally proposed: *HMC Portland*, iv, Newcastle to Harley, 17 June 1706, p. 313.

<sup>422</sup> Whatley, *Scots & Union*, p. 276. Holmes, *British Politics*, p. 386.

<sup>423</sup> Whatley, *Scots & Union*, pp. 306-307.

<sup>424</sup> Belhaven's speech, 2 November 1706, in Defoe, *History* p. 327; Clerk, *History*, p. 129.

‘independency’, most obviously a separate parliament and government, the level of Scottish representation in the British parliament gave traction to claims that the British parliament could not be trusted to look after Scottish rights and interests and in particular not to subject Scotland to higher levels of tax. Further, as noted above,<sup>425</sup> presbyterians were especially concerned that a British parliament might introduce toleration or even replace presbyterian church government with episcopacy, fears which were by no means wholly assuaged by the passage of the Kirk Act.<sup>426</sup> It was argued that even those rights which were reserved under the Treaty could not be guaranteed from subsequent amendment or change.<sup>427</sup> In these circumstances, it was easy for opponents of the Union to present it as an extension of ‘English Influence’ and the culmination of a long-standing English design to annex Scotland as a ‘province’. These concerns were summarized in Annandale’s protest over Article 3 on 18 November 1706<sup>428</sup> and again in his protest against the approval of Article 22 on 7 January 1707.<sup>429</sup> The lack of representation was therefore enormously significant in undermining Article 14’s claim that:

it cannot be supposed that the Parliament of Great Britain will ever lay any sort of Burthens upon the united Kingdom, but what they shall find of necessity...for the Preservation and Good of the whole; and with due Regard to the Circumstances and Abilities of every Part of the united Kingdom.

As Secretary Mar told under-secretary Nairn, justifying the need for Explanations, ‘trusting to the parliament of Britain for rectifications... does not sound well here at present’,<sup>430</sup> while Defoe advised Harley that ‘the very word, Parliament of Britain, is grown terrible here’.<sup>431</sup> The importance of the

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<sup>425</sup> pp. 101-102.

<sup>426</sup> Belhaven’s protest, 12 November, *APS*, xi, p. 320.

<sup>427</sup> For example, the petitions from Lauder and Dumfries: Boyer, *Annals*, 5, pp. 349-352.

<sup>428</sup> *APS*, xi, p. 328.

<sup>429</sup> *APS*, xi, pp. 386-387.

<sup>430</sup> *HMC Mar & Kellie*, Mar to Nairn, 14 November 1706, p. 321.

<sup>431</sup> *HMC Portland*, iv, Defoe to Harley, 28 November 1706, p. 360; and *HMC Mar & Kellie*, Mar to Nairn 21 November 1706, rejecting the proposal that the resolution of Scottish difficulties with the Treaty should be reserved to the British parliament, pp. 329-330.

representation issue was demonstrated by the fact that it was the only subject where the Scottish commissioners were unable to agree terms with the English commissioners without a formal debate or 'conference'.<sup>432</sup>

### A retrospective assessment

Matters of honour and status were politically highly important for contemporaries and had enormous public traction. For example, agitation over the allegation that the 'honours of Scotland' would be taken to England resulted in specific provisions for their retention in Scotland under Article 24.<sup>433</sup> In this respect, it is clear that Scotland had to swallow the most pride. It lost its separate government and parliament, and hence at least the symbols of sovereignty,<sup>434</sup> and acquired only limited representation in the British parliament, which would meet in England. Distinctive Scottish weights and measures and coinage were replaced with English units. Scottish peers no longer attended parliament as of right by virtue of their rank and had to suffer the 'degradation'<sup>435</sup> of election, as noted by the formal protests against ratification in both the Scottish parliament and English House of Lords.<sup>436</sup> Whig peers derided the Scots after ratification for selling themselves so cheaply.<sup>437</sup>

Nevertheless, the Union had not only the form but also the substance of a treaty between legally separate kingdoms. Both England and Scotland lost their historic names, since the new kingdom was to be called Great Britain. Notwithstanding England's vastly superior military, economic and financial strength (which necessarily demanded due consideration of *English* pride) significant concessions were made to Scotland. Indeed, contemporaries in both England and Scotland regarded the trade concessions as very generous, the 'liberty of the Plantations' having been 'secured by much English

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<sup>432</sup> On 12 June 1706: Clerk, *History*, pp. 85-89.

<sup>433</sup> Clerk, *History*, p. 100; APS, xi, p. 401; Whatley, *Scots & Union*, pp. 332-333.

<sup>434</sup> *HMC Laing*, ii, Lord Advocate's memorial, pp. 125-135, mis-attributed to Seafield.

<sup>435</sup> *Jerviswood*, Roxburgh to Baillie, 28 November 1705, p. 138.

<sup>436</sup> Boyer, *Annals*, 5, pp. 462-463; Burnet, *History*, v, pp. 283-284.

<sup>437</sup> *Jerviswood*, Johnstone to Baillie, 4 March 1707, p. 191.

Blood Toile and Treasure'.<sup>438</sup> This is the context for the recurrent concern (or in the case of opponents such as Hamilton and Fletcher, hope) that the English parliament would not concede a meaningful communication of trade and hence that the Court group was not really committed to union.<sup>439</sup>

In fact, not only was Scotland given full access to the English trading system, its merchants also gained the protection of the Royal Navy and an English-funded army. As Pitmidden argued, an 'independent' Scotland simply did not have the financial resources to provide this protection.<sup>440</sup> The Scots also secured compensation for their contribution (through higher customs and excises) towards the repayment of pre-Union English war debt, although as the English commissioners had maintained in 1702, Scotland (or at least the 'Revolution Interest') had in fact benefitted from the wars in defence of the Revolution: these had *not* been solely 'England's wars'.<sup>441</sup> As explained above,<sup>442</sup> they also obtained significant transitional reliefs, exemptions and derogations from the English Customs and Excise regime and a permanent land tax dispensation, and won additional representation in the British Commons after the conference of 12 June 1706. Although this was only an increase from the 38 proposed initially by the English to 45<sup>443</sup> it was far more than was justified by Scotland's financial contribution to the new kingdom, and could upset 'the balance of the constitution', as the Union's English critics complained.<sup>444</sup> Although Cornwall had nearly as many MPs (44) as Scotland, Wales with maybe half the population of Scotland, had only 24. Ireland and the Plantations, of course, were not represented. Burnet's view was that 'nothing but the

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<sup>438</sup> BL, Add Ms 61627, 16 December 1702, pp. 62-65; Godolphin's speech 19 December 1702, p. 70; Clerk, *History*, Testamentary Memorial, 1744, p. 186; *HMC Mar & Kellie*, Mar to Godolphin, 16 September 1706, p. 278.

<sup>439</sup> For example, *Jerviswood*, Baillie to Roxburgh, 13 November 1705, pp. 135-136; for Fletcher's doubts over English ratification, see *HMC Mar & Kellie*, Erskine to Mar, 22 June 1706, pp. 267-268; for doubts over the Court's commitment, see *Jerviswood*, Johnstone to Baillie, 23 November 1706, pp. 170-171.

<sup>440</sup> Pitmidden's speech, November 1706, Whatley, *Bought and Sold*, Appendix 1, p. 92.

<sup>441</sup> BL, Add Ms 61627, 16 December 1706, p. 64; *APS*, xi, Appendix p. 153.

<sup>442</sup> pp. 99-102.

<sup>443</sup> Boyer, *Annals*, 5, pp. 47-48.

<sup>444</sup> Boyer, *Annals*, 5: speeches by Haversham (pp. 443-444), North & Grey (pp. 446-447) and Nottingham (p. 447).

consideration of the safety, that was to be procured by it to England, could have brought the English to agree to a project, that, in every branch of it, was much more favourable to the Scotch nation'.<sup>445</sup>

Notwithstanding these negotiated concessions, it was genuinely uncertain that the Treaty would be ratified by the Scottish parliament.<sup>446</sup> Despite the Court group's initial position that no amendments to the Treaty would be accepted,<sup>447</sup> further concessions by way of the Explanations were necessary as a result of Scottish parliamentary and public pressure.<sup>448</sup> These related principally to the duties on salt and malt, popular protest over which seriously alarmed the Scottish ministry.<sup>449</sup> Not only did these duties affect the staple diet of most Scots, they also threatened the commercial interests of important Scottish landowners.<sup>450</sup> Similarly, addresses from the Commission of the General Assembly regarding the presbyterian church settlement were reflected in the Kirk Act.<sup>451</sup>

Although Scottish representation in the British parliament was small, incorporation meant that Scotland was thereafter represented in the supreme legislature of the British monarchy whereas previously, it had had no representation at all in its *de facto* principal legislature. Further, such was the balance of parties in the English parliament, especially in the Lords, that the Scottish representatives could hold the balance of power.<sup>452</sup> Indeed, party rivalry and Court group policy meant that the British parliament rarely divided on England *versus* Scotland lines. Consequently, anti-Union polemics alleging intensifying English control over Scotland, and a union parliament

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<sup>445</sup> Burnet, *History*, v, pp. 281-283.

<sup>446</sup> *HMC Mar & Kellie*, Mar to Nairn 4 October, p. 285.

<sup>447</sup> *Jerviswood*, Baillie to Johnstone, 29 October 1706, p. 167.

<sup>448</sup> Bowie, *Scottish Public Opinion*, pp. 136-137 and pp. 157-158.

<sup>449</sup> The Scottish ministry's proposals for further concessions are summarized in *HMC Laing*, ii, Seafield Memorial of [October] 1706, pp. 135-139 and *HMC Portland*, iv, Defoe to Harley 13 November 1706, p. 348. For Argyll's sarcastic observations on the tuppenny ale issue for Godolphin, see *Marchmont*, iii, 22 November 1706. For fears that the Union would 'break' over Article 8 (Salt), see *Jerviswood*, Johnstone to Baillie, 24 December 1706 p. 178 and *HMC Mar & Kellie*, Mar to Nairn, 17 December, p. 357. For the Scottish ministry's insistence that concessions were necessary, see *HMC Mar & Kellie*, Mar to Nairn, 26 November 1706, pp. 333-336, and *HMC Portland*, iv, Stair to Harley, 26 November 1706, p. 359.

<sup>450</sup> Whatley, *Scots & Union*, pp. 335-337; 'Salt, Coal and the Union', pp. 37-38.

<sup>451</sup> Stephen, *Scottish Presbyterians*, pp. 44-66.

<sup>452</sup> Harris, *General in Winter*, pp. 261-262, for the later importance of Scottish peers in sustaining Godolphin against Junto pressure.

dominated by an overwhelming English majority 'partial against Scotland' determined to encroach on its religion, laws, liberties and trade,<sup>453</sup> proved to be exaggerated.

Indeed, the pluralistic features of the Union are striking. Although it achieved a significant degree of legislative and economic integration compared with contemporary polities,<sup>454</sup> the absence of confessional, administrative and legal integration which characterized the Regal Union not only remained but were embedded at the very core of the Union. Scotland retained its separate church, law and justice system in matters of private right, its own electoral and direct taxation system and its local government structures. Its Royal Burghs retained their privileges and continued to hold their annual convention, while its church continued to hold its General Assemblies. Scotland therefore retained distinctive national representative institutions. Integration was confined, firstly, to the monarchy and Offices of State, secondly to the trading system and indirect taxes, regulations and incentives that accompanied it, and thirdly (with some limitations) to the legislature. Unlike Wales, Scotland was not absorbed into England, and with the exception of its parliament, many of its most distinctive features were preserved, so that Scotland did not 'evaporate.'<sup>455</sup>

### Court group perspectives

It is natural to interpret the Union in terms of the relative costs and benefits for the two kingdoms and of the respective parliamentary responses to it. Consequently, Union historiography has been largely devoted to explaining the '*volte face*' performed by both parliaments over union. In Scotland, the 'anti-union' majority in 1703-1704 transformed into a clear majority in favour of union in 1706-1707. In England, the Commons threw out a Lords bill to appoint union commissioners in 1700 while ratifying it by a large majority in 1707.

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<sup>453</sup> Defoe, *History*, Address of the Convention of Royal Burghs, Appendix Dx, p. 613.

<sup>454</sup> Above, pp. 55-57.

<sup>455</sup> Fry, *The Union*, p. viii.

As argued in Chapter 2,<sup>456</sup> however, it is important not to interpret the Union in such bilateral Anglo-Scottish terms and to consider Court group perspectives: conflating them with 'England' is to accept uncritically contemporary Scottish Country polemic. Both kingdoms' commissioners were appointed by the Court group, not by the parliaments, and included key Court group personnel. Both sets of commissioners understood that the Court group's objective was an incorporating union: twice in 1702-1703 and again in 1706 the Queen intervened personally to pursue this objective.<sup>457</sup>

Interpreted in this context, the Court group was seeking to procure concessions from both parliaments to secure incorporation, and the commissioners' task was to negotiate terms on its behalf on which both parliaments would agree to grant them. In doing this, they naturally had to take account of key interests represented in either parliament. This was reflected, for example, in the opening Scottish gesture in favour of a federal union, and in the English concern that asserting the security of Scottish presbyterianism as a 'fundamental' would antagonize High Tories.

From a Court group perspective, it is highly significant that the Union involved no new constitutional developments in terms of the respective powers of the monarchy and parliament. The royal prerogative was untouched, so that the Union did not need to create either a British army or British Navy and the conduct of foreign policy and war remained under Court group control, subject to the need for parliamentary co-operation to provide the necessary funds. From a Scottish Country perspective, the new kingdom possessed triennial parliaments, place legislation (as amended by the Regency Act), *habeas corpus*, and the limitations on the successor's prerogative imposed by the Act of Settlement. Scottish 'liberty, religion and property' could therefore be protected from arbitrary government by the new British parliament<sup>458</sup> which, as an extension of the English parliament, had already secured the necessary powers. As Defoe observed, the Scottish party that had supported

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<sup>456</sup> Above, p. 94.

<sup>457</sup> BL, Add Ms 61627, 18 November by letter (dated 16 November), pp. 26-27; 14 December, in person, pp. 58-60; Boyer, *Annals*, 5, 21 May 1706, p. 32.

<sup>458</sup> Whatley, *Bought and Sold*, Pitmidden's speech, p. 93; Roxburgh's reply to Belhaven's speech, November 1706, reported in *HMC Portland*, viii, Paterson to Erasmus Lewis (English under-secretary of state), 5 November, 1706, p. 260.



‘limitations’ on Anne’s successor (by which he meant the ‘New Party’) now supported union because the best limitations were those of England.<sup>459</sup>

Accordingly, the Union did not alter the basic realities of the Regal Union. Scotland, like England, continued to be under the direction of the Court group, which was exercised subject to the influence of largely English parliamentary representatives. Indeed, as noted in the discussion of Court group objectives in Chapter 6,<sup>460</sup> the Union actually *enhanced* this control, so that the co-ordination of a military response to a Jacobite insurrection in Scotland, possibly supported by a French invasion, was made much easier.<sup>461</sup>

## Conclusion

Far from bringing Scotland under ‘English’ control, the Union replaced an existing system of Court group control over both kingdoms based on a personal dynastic connection and prerogatives, which was vulnerable to the possibility of dynastic failure. This new system was based on a single kingdom established on a statutory basis with a statutory rule of succession and entrenched prerogative powers. The existential threat to the British monarchy posed by the possibility that the Scottish succession would follow a different line was eliminated.

A nominally independent Scottish parliament and an English parliament with extensive *de facto* influence over Scotland in which Scotland was, of course, not represented, were replaced by a single parliament for both kingdoms in which Scotland was represented, albeit in arguably insignificant numbers. The influence of largely English parliamentary representatives over Court groups was therefore maintained. As Johnstone told Marlborough, regarding ‘giving up the legislature, which no free people ever did without force’, Marlborough knew full well that the reality was that ‘we had none to give up, for the true state of the matter was whether [Scotland] should continue subject to an

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<sup>459</sup> Defoe, *History*, p. 352.

<sup>460</sup> Below, p. 185.

<sup>461</sup> *Jerviswood*, Roxburgh to Baillie, 28 November 1705, p. 139; see also the arguments in the Lords’ ratification debates, Burnet, *History*, v, p. 294.

English ministry without trade or be subject to an [English parliament] with trade'.<sup>462</sup> Accordingly, as he told Baillie 'they parted with nothing but names and shadows'.<sup>463</sup> Perhaps this can be dismissed as *ex post facto* self-justification by the *Squadron*, but Roxburgh expressed the same sentiment much earlier: incorporation would mean 'quitting a name and a poor independent sovereignty for a small share [in] a great one'.<sup>464</sup> It was also the view of unionists such as Clerk: 'our independent parliaments were meer phantoms of power, and perfect Burlesques on free national assemblies'.<sup>465</sup> Further, as noted in Chapter 2,<sup>466</sup> it was no more than the Country narrative advanced by Ridpath and Fletcher. In fact, Clerk and others in the Scottish parliament referred to Fletcher's speeches to make this point, much to Fletcher's fury.<sup>467</sup>

While existing confessional, administrative and legal divisions continued (and were institutionalized), the Union extended the English trading system and its associated indirect tax system to Scotland. The systematic exclusion of Scotland from this trading system and from the protection afforded by the Royal Navy was thereby terminated and a single free market, the largest in the world at the time, was established, regulated by a single parliament. The Union did not, however, mark the end of the British composite monarchy. The separate legislatures and administrations of Ireland, the Plantations and other territories continued as before, although subject to the British rather than the English crown. Ireland continued to be largely excluded from the English trading system, and to have its own Church. Moreover, from 1714, Great Britain and Hanover formed a *new* composite monarchy.

The answer to the first of the questions posed in Chapter 1<sup>468</sup> is therefore that the Union represented a significant statute-based *modification* of the *existing* union between the kingdoms. At its core was a bargain involving the Court group's procurement from the English parliament of

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<sup>462</sup> *Jerviswood*, Johnstone to Baillie, 14 December 1706, pp. 176-177.

<sup>463</sup> *Jerviswood*, Johnstone to Baillie 4 March, 1707, p. 191.

<sup>464</sup> *Jerviswood*, Roxburgh to Baillie, 28 November 1705, p. 138.

<sup>465</sup> Clerk, *History*, 1744 Testamentary Memorial, p. 187.

<sup>466</sup> Above, p. 74, pp. 93-94.

<sup>467</sup> Clerk, *History*, p. 112.

<sup>468</sup> Above, p. 34.

trading concessions in exchange for the procurement of the Protestant Succession from the Scottish parliament. It was therefore a disaster for Jacobites, and for Scottish radicals seeking to loosen Court group control over Scotland.

The succession was, however, delivered not by a Scottish Act of Settlement, but by the creation of a new statutory kingdom whose succession followed the English Act of Settlement. The extension of the English trading system to Scotland was similarly delivered not by an Act of the English parliament, or by a bilateral trade treaty, but by the incorporation of both kingdoms into a new statutory kingdom whose single parliament was responsible, *inter alia*, for the regulation of its single market. An understanding of the origins of the Union must therefore consider, firstly, why this bargain was necessary; and secondly, why it was structured as an ‘incorporating’ union of the two crowns and the two parliaments.

Such considerations require answers to the linked questions of agency and timing. For example, if the Union were the outcome of conflict within or between the two parliaments of England and Scotland, this might support explanations based on short-term political calculation and the absence of policy.<sup>469</sup> If, however, the Union were the work of a Court group, then the explanations must lie either in a Court group reaction to external pressures, or in *policy*. A short time-line would support explanations based on an expedient reaction to political developments, notably those which focus on the events of 1704,<sup>470</sup> whereas a longer time-line might evidence the pursuit of a consistent policy. The next two chapters<sup>471</sup> therefore consider the question of agency for the Union, and the following chapters<sup>472</sup> its time-line.

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<sup>469</sup> Above, pp. 21-23.

<sup>470</sup> Above, pp. 30-34.

<sup>471</sup> Below, pp. 115-168.

<sup>472</sup> Below, pp. 169-238.

## Chapter 4 The Court Group of Queen Anne

### Introduction

This chapter and the next are concerned with the second of the questions posed in Chapter 1, that of *agency* for the Union.<sup>473</sup> Together they challenge the passive or marginal role accorded to the Queen and her closest advisers in Union narratives dominated by parliamentary politics.

In Chapter 2 it was argued that important characteristics of the pre-Revolution monarchy survived the Revolution. These included the central role of ‘Court groups’ in the co-ordination of government throughout the Regal Union, informal decision-making processes and limited ministerial specialization.<sup>474</sup> This is not to argue that substantial limitations were not imposed on monarchical power between 1689 and 1727, which cumulatively might amount to a ‘revolution.’<sup>475</sup> However, it is important not to anticipate the development of single-party government and to treat with caution the representation of Anne’s reign as a step-change in the evolution of ‘limited, bureaucratic and parliamentary’ monarchy, with the emergence of the ‘Cabinet Council’ and the Prime Ministerial function.<sup>476</sup> Indeed, some older narratives recognize that under George I, contemporaries continued to recognize the Court’s importance as a political institution,<sup>477</sup> that Walpole reduced the Cabinet’s role to ‘virtual insignificance’ and that effective high-level political power continued to be exercised by a small group of advisers dependent on royal favour.<sup>478</sup> Recent scholarship confirms the enduring political importance of the Court as an institution after Anne’s death.<sup>479</sup>

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<sup>473</sup> Above, pp. 34-35.

<sup>474</sup> Above, pp. 81-94.

<sup>475</sup> Harris, *Revolution*, pp. 513-514; Holmes, *Great Power*, p. 212, and pp. 221-223.

<sup>476</sup> Harris, *Revolution*, pp. 491-494; Holmes, *British Politics*, pp. 193-194; *Great Power*, p. 224; Carter, ‘The Revolution and the Constitution’, pp. 49-52; Plumb, ‘Organization of the Cabinet’, pp. 137-57 and *Stability*, pp. 100-103.

<sup>477</sup> J.M. Beattie, ‘The Court of George I and English Politics’, *The English Historical Review*, 81 (1966) pp. 26-37.

<sup>478</sup> Plumb, *Stability*, pp. 104-105.

<sup>479</sup> For example, Smith, *Georgian Monarchy*, pp. 212-232.

This Chapter therefore considers, in the period from Anne's accession in 1702 to the dismissal of Harley in February 1708, firstly the relationship between the Court group, the Queen's ministries and the Cabinet; secondly, Anne's political significance; and thirdly, the dynamics within the Court group. It argues that during this period, the Court group was uniquely powerful and coherent and that it was this group, not evolving institutions such as the Cabinet, which took the decision to proceed with the Union. Chapter 5 then examines this group's ability to 'stand impartially aloof from party differences'<sup>480</sup> in the English parliament to realize its objectives. These objectives are explored in Chapter 6.

### Court groups

Although from a practical perspective it was necessary for Court groups to control key ministerial positions, their composition was based on the favour and confidence of the monarch, and not on specific office. For example, William's parliamentary 'manager', Sunderland, held no office, apart from briefly in 1697, while his closest adviser, Portland, held only Bedchamber office. Similarly in Anne's reign, Speaker Harley, one of the politically dominant Triumvirs, held neither Office of State nor Court office, and did not participate in Cabinet meetings until May 1704. Godolphin himself collaborated with Marlborough and the Queen in diplomatic and strategic decision-making from her accession in March 1702 although holding no office until May.<sup>481</sup> Still less was their composition based on parliamentary support. None of Anne's most senior advisers fell from power because they were unable to control parliament,<sup>482</sup> although the vital importance of parliamentary management was fully understood.

The fact that ministerial office did not guarantee inclusion in Court groups was important because it enabled concessions over appointments to office to be made without necessarily conceding real power. For instance, although by the end of the Nine Year's War the Junto dominated high office in

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<sup>480</sup> Holmes, *British Politics*, p. 188.

<sup>481</sup> *MGC*, Marlborough to Godolphin 24 March; 27 March and 31 March 1702, pp. 52-56.

<sup>482</sup> Holmes, *British Politics*, p. 209.

England,<sup>483</sup> they did not control William's 'inner council,' and their inability to command his confidence was a fatal source of weakness in the face of English parliamentary opposition after 1698.<sup>484</sup> Similarly, when the Junto returned to high office from the end of 1706, they found that Marlborough, Godolphin and the Queen continued to take decisions outside formal structures, such as the Cabinet, and hence away from Junto influence.<sup>485</sup> They therefore sought to bring decision-making processes within the Cabinet which, by the end of 1709, they dominated. The Duumvirs, however, were less concerned about Junto pressure for office than their replacement in the Queen's confidence by Harley.<sup>486</sup> Indeed, it was this loss of confidence that brought about their fall.

### The ministries

Like their pre-Revolution counterparts, Anne's Scottish and English ministries were heterogenous groups of individuals, frequently of different political allegiances, so that Officers of State (still less, junior officers) did not consider themselves obliged to collaborate and act together.<sup>487</sup> Amongst abundant examples, the Scottish ministry in 1702-1703 was hopelessly split between 'Presbyterians' and supporters of the 'Cavalier Alliance.'<sup>488</sup> In England, in 1702-1703, Comptroller of the Household Seymour led the campaign against the Queen's 'Prince's Bill' providing for Prince George should she predecease him, while in 1705, some 17 of the 'Queen's Servants' sitting in the Commons voted against the election of government's candidate for Speaker.<sup>489</sup>

The Queen's ministries did not, therefore, encroach on monarchical power. However, because Anne's reign has been represented as step-change in the emergence of Cabinet government,<sup>490</sup> it is

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<sup>483</sup> E.L. Ellis, 'William III and the Politicians', in *Britain after the Glorious Revolution*, pp. 126-127.

<sup>484</sup> Horwitz, *Parliament, Policy and Politics*, pp. 217-218.

<sup>485</sup> Harris, *General in Winter*, pp. 261-262, for Godolphin's successful management of Junto pressure at the end of 1708.

<sup>486</sup> *MGC*, Godolphin to Marlborough, 28 August 1708, p. 1085. This draft letter from Marlborough to Anne reassuring her over further Junto appointments, is premised on the importance of her confidence in the Duumvirs for protecting her independence.

<sup>487</sup> Holmes, *British Politics*, pp. 347-349.

<sup>488</sup> Below, p. 257.

<sup>489</sup> W.A. Speck, 'The Choice of a Speaker in 1705', *BIHR*, 37 (1964), p. 25.

<sup>490</sup> Above, p. 33.

necessary to explore further the function of the Cabinet, and in particular whether it had agency for the Union.

## The Cabinet Council

In the period up to (and beyond) the Union, the Cabinet comprised a group of senior advisers, usually members of the Privy Council, which met regularly with the Queen. It originated in William's reign as a committee of the English Privy Council for the purposes of co-ordinating the demands of war and managing the domestic 'business' of a routinely absentee monarch.<sup>491</sup> Smaller meetings of the 'Lords of the Committee', without the Queen, and attended as necessary by junior ministers and specialists such as the Prince's Council (responsible for Naval matters) or the Council of Trade, were held to deal with specific issues referred to them by the Cabinet, or to prepare matters for the Cabinet's consideration.<sup>492</sup>

Its composition was not defined by custom or by law, varied according to royal invitation and was controlled by the Court group. As Marlborough concurred with Godolphin, 'nobody should go there that is not in all respects what one would desire, unless there is that a necessity'.<sup>493</sup> The right to attend Cabinet was therefore a recognition of political status and influence. Newcastle, Lord Privy Seal from 1705, only attended irregularly, preferring to remain on his estates, and had to be encouraged to participate by fellow Whigs.<sup>494</sup> However, he was given high office and high-profile roles (such as union commissioner in both 1702 and 1706) on account of his pre-eminence in Whig circles and independence from the Junto. Cabinet meetings might therefore include the principal Officers of State, the principal household officers, royal favourites, and other high-ranking persons, notably the Archbishop of Canterbury and Prince George.<sup>495</sup> However, office did not guarantee the

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<sup>491</sup> Holmes, *Great Power*, p. 224; Carter, 'Cabinet records'; Plumb, *Stability*, p. 103.

<sup>492</sup> Plumb, 'Organization of the Cabinet', p. 141. This distinction is clear in Harley's minutes: BL, Add Mss 70334-70337.

<sup>493</sup> *MGC*, Marlborough to Godolphin-25 May 1707, pp. 793-794.

<sup>494</sup> For example, *HMC Portland*, ii, Somers to Newcastle, 18 August 1705 p. 190.

<sup>495</sup> Plumb, 'Organization of the Cabinet', pp. 142-146.

right to attend. For example, Anne excluded Lord Chamberlain Kent although his predecessor, Jersey and his successor, Shrewsbury, were included. After 1707, Queensberry was excluded even though he held the office of Scottish Secretary.<sup>496</sup>

Its authority was not exclusive. Ministers (especially Harley, Godolphin and Marlborough, and from 1706, Godolphin and Cowper)<sup>497</sup> met and corresponded outside formal meetings to agree measures.<sup>498</sup> Similarly, Anne might bypass the Cabinet, and agree measures directly with ministers and favourites. Marlborough and Godolphin habitually determined what should be brought before the Cabinet and what should not. For instance, the Cabinet was not informed of (still less asked to approve) Marlborough's celebrated march across Germany to Blenheim (although the Queen and Prince were privy to the scheme) nor his proposed march to Turin in 1706.<sup>499</sup> Indeed, whole areas of government were outside the Cabinet's purview where they concerned the exercise of prerogative rights. Clerical promotions were based on the Queen's discussions with Archbishop Sharp of York, and to a lesser extent, Harley, while she agreed English (and Irish) judicial promotions with the Lord Keeper.<sup>500</sup> Scottish matters were not normally considered by the Cabinet, unless they had serious implications for England.<sup>501</sup>

Just as ministerial office-holders felt no obligation to act in concert, there was no concept of collective Cabinet responsibility. For example, in the winter of 1702-1703, the Whigs Devonshire and Somerset sought to have their Tory colleague Nottingham's conduct of the enquiry into the 'Scotch

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<sup>496</sup> *MGC*, Marlborough to Godolphin, 25 May 1707, pp. 791-794.

<sup>497</sup> The conduct of high-level decision-making is considered by H.L. Snyder in 'Godolphin and Harley: a Study of their Partnership in Politics', *Huntington Library Quarterly*, 30 (1967), pp. 241-271 and in 'Foreign and Domestic Policy', pp. 144-160.

<sup>498</sup> For example, *HMC Portland*, iv, Godolphin's invitation to Harley to a meeting with Anne, 7 July 1702, p. 43; and Godolphin and Harley's discussing the draft Queen's speech, 16 September, p. 47 and 27 September 1702, p. 48.

<sup>499</sup> *MGC*, Marlborough to Godolphin, 18 April 1704, p. 279; Godolphin to Marlborough, 9 May 1706, p. 541.

<sup>500</sup> *Cowper*, p. 37.

<sup>501</sup> For example, the Darien project: see BL, Add Ms 40781, pp. 97-99, pp. 157-161, pp. 190-191; and the Act of Security: BL, Add Ms 29589 ff. 107-108, Godolphin to Nottingham, 23 August 1703. Plumb's reference to Scottish affairs in 'Organization of the Cabinet', p. 154, is to *post-Union* Cabinet meetings.



Plot' censured by the House of Lords.<sup>502</sup> Similarly, when the Queen and Harley sought to replace Godolphin in February 1708, although the Cabinet meeting following the resignation of the Duumvirs broke up when Somerset would not proceed without Marlborough, there were no collective resignations in support of the Duumvirs. The same episode also shows that there was no direct connection between Cabinet membership and the support of the House of Commons: there were no parliamentary votes or addresses which might have convinced the Queen that Harley could not carry on her business. Although the news that Harley had replaced the Duumvirs spread rapidly, it became apparent to the Queen (possibly advised by Prince George) that he could not command sufficient support from key politicians, obliging her to dismiss him.<sup>503</sup>

The Cabinet was *not* therefore responsible for the highest level of decision-making. Rather, it was an executive body which provided a forum where pre-eminent political figures could meet in the Queen's presence to discuss and formally agree on issues where political consensus was considered important. For example, in 1703 the Scottish Act of Security and the failure to secure supply in Scotland was 'of so much consequence to England as well as Scotland as not to be determined without the opinion of the Lords of the Cabinet Council'. Godolphin, attending the Queen on her West Country progress, therefore wrote to Nottingham (in London) that the Queen had ordered the circulation of the relevant correspondence from the Scottish ministry to the Cabinet to canvass their opinion before calling them to a meeting.<sup>504</sup> Similarly, Anne's speeches to the English parliament were typically read through paragraph by paragraph before the Cabinet having, however, already been drafted by the Court group.<sup>505</sup>

While there was no aspect of the Queen's business that might fall outside the Cabinet's purview, surviving minutes for the period 1704-1707 confirm that its main business was overwhelmingly

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<sup>502</sup> H. Horwitz, *Revolution Politicks: the Career of Daniel Finch, Second Earl of Nottingham* (Cambridge, 1968), pp. 193-198.

<sup>503</sup> Harris, *General in Winter* pp. 234-235; Gregg, *Queen Anne*, pp. 258-259; G. S. Holmes and W.A. Speck, 'The Fall of Harley in 1708 Reconsidered', *EHR*, 80 (1965), pp. 695-697.

<sup>504</sup> BL, Add Ms 29589 ff. 107-108, Godolphin to Nottingham, 23 August 1703.

<sup>505</sup> BL, Add Ms 70334, minute for 23 October 1704; and BL Add Ms 70336, minute for 19 March 1706.

military and diplomatic,<sup>506</sup> and that it also dealt with a great deal of routine administration and private pleas.<sup>507</sup> It rarely dealt with Treasury business.<sup>508</sup> Significantly, there is no evidence that it was the forum for decisions over Scottish policy. Indeed, correspondence between Harley and Godolphin evidences the making of the decision to assent to the Act of Security outside Cabinet.<sup>509</sup> Although the Cabinet discussed the Act of Security in 1703, this was to consider its implications for *England*. The failure of the Scottish succession initiative was discussed in July 1704 for the same reason, while reparations for the Africa Company (to be paid by *England*) also seem to have been discussed later that year.<sup>510</sup> The other references to Scottish matters in this period relate not to the formulation of policy but to its implementation, for example, arranging the transport of Tweeddale's equipage as High Commissioner to Scotland, providing the English parliament with details of Scottish parliamentary proceedings in 1705, Gazetting the successful negotiation of the Union Treaty, and noting the movement of troops to the Scottish border and Ulster at the end of 1706.<sup>511</sup> In short, there is no evidence that the decision to proceed with the Union was made in the Cabinet and no reason to suppose that agency for the Union lay outside the Court group.

As discussed in Chapter 2, Court group political effectiveness depended crucially on the personality and application of the monarch.<sup>512</sup> Consideration of agency for the Union therefore requires an assessment of Anne's character and abilities. These are addressed below.

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<sup>506</sup> Plumb describes it as the highest executive body during the Spanish Succession War: 'Organization of the Cabinet', p. 137.

<sup>507</sup> Harley minutes, BL, Add Mss 70334-70337; Sunderland minutes, BL, Add Ms 61498; Vernon minutes, BL, Add Mss 40781 and 40775.

<sup>508</sup> Plumb, *Stability*, p. 113, fn. 1.

<sup>509</sup> BL, Add Ms 28055, f. 5 and ff. 7-8, Harley to Godolphin, 'Thursday night' and '30 July'. This correspondence is filed with letters from 1703 but on internal evidence clearly belongs to 1704.

<sup>510</sup> BL, Add Ms 70334, minutes for 23 July 1704 (in which correspondence from Tweeddale to the Queen and Godolphin was read, probably NLS, 7121 ff. 30-32 dated 18 July) and for 4 and 28 August regarding the Africa Company.

<sup>511</sup> BL, Add Ms 70334, minute for 18 June 1704; BL, Add Ms 70336, minute for 18 November 1705;

BL, Add Ms 70337, minutes for 23 July and 24 November 1706

<sup>512</sup> Above, pp. 90-91.

## The character of the Queen

Although it is routinely recognized that Anne was no cypher,<sup>513</sup> her characterization as an inexperienced invalid unable to participate effectively in government and dependent on ministerial advice persists.<sup>514</sup> This underpins the historiographical representation of her reign as a step-change in the evolution of 'limited, bureaucratic and parliamentary' monarchy.<sup>515</sup> This assessment is profoundly influenced by Lady Marlborough's pejorative account in vindication of her own conduct, and by the survival of the extensive but one-sided private correspondence between them. For example:

Lord Godolphin conducted the Queen, with the care and tenderness of a father, or guardian, through a state of helpless ignorance, and had faithfully served her in all her difficulties before she was Queen, as well as greatly contributed to the glories she had to boast of after she was so...<sup>516</sup>

Holmes, contrasting her with William, concluded that her 'sluggish undisciplined mental processes normally put most of the complexities of public business, especially financial and diplomatic business, beyond her'.<sup>517</sup> This comparison is scarcely fair, since few contemporaries could match William's political and military experience. Further, Anne's authority should not be contrasted with William's during the Nine Years' War. After war ended and the 1698 elections, William suffered serious checks to his authority, so much so that he told Somers he was considering leaving England.<sup>518</sup> In the 1698-1699 session, the English parliament substantially demobilized his army against his express wishes,<sup>519</sup> while in the 1699-1700 session, he was obliged to consent to the resumption of his Irish land grants, telling the Dutch *raadpensionaris*<sup>520</sup> Heinsius in April 1700, 'it has

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<sup>513</sup> For example, Holmes, *British Politics*, p. 194

<sup>514</sup> See Holmes, *British Politics*, pp. xxiii-xxiv regarding Gregg's 'extravagant' claims regarding Anne's 'exceedingly limited grasp of state affairs'.

<sup>515</sup> Above, p. 33.

<sup>516</sup> Gregg, *Queen Anne*, p. 138, citing *Private Correspondence of the Duchess of Marlborough*, ed. Lord John Russell, (London, 1838), ii, p. 117.

<sup>517</sup> Holmes, *British Politics*, p. 194.

<sup>518</sup> Horwitz, *Parliament, Policy and Politics*, p. 250.

<sup>519</sup> Schwoerer, 'Standing Army Controversy', pp. 75-94.

<sup>520</sup> Usually rendered 'Grand Pensionary': the *de facto* principal Dutch Officer of State.

in truth been the most dismal session I have ever had'.<sup>521</sup> The new parliament of 1701 went further, launching (albeit unsuccessful) impeachment proceedings against his favourite, Portland, and erstwhile Junto ministers over the signing of the Partition Treaties. After this experience, it was clear that diplomacy could no longer be the exclusive preserve of the prerogative, and that ministerial and parliamentary involvement would be necessary. Marlborough's negotiation of the Grand Alliance in 1701 when acting as William's plenipotentiary was therefore in marked contrast to the Partition Treaties: elaborate care was taken to refer important matters for ministerial or parliamentary approval.<sup>522</sup> Accordingly, the routine discussion in Cabinet and parliament of foreign policy and military strategy, which was a consistent feature of Anne's reign,<sup>523</sup> originated under William.

In important respects, moreover, the differences between the two monarchs were differences of degree. Both made extensive use of favourites: Anne favoured the Churchills while William favoured Portland and Keppel (later, Earl of Albemarle). Indeed, Portland's military and diplomatic role, for example in the negotiation of the Partition Treaties, anticipated that of Marlborough in the negotiation and sustaining of the Grand Alliance. Similarly, the Earl of Sunderland's role in managing parliament and relations with the Junto for William foreshadowed Godolphin's function under Anne. William also relied extensively on his ministers. Like Anne, he had little grasp of financial affairs and relied on Godolphin and then Montagu at the Treasury to manage war finance. Like Anne, his ministers drafted his speeches: the well-received speech he delivered to the new parliament of 1701 was drafted by Somers, as was his speech to parliament in 1698.<sup>524</sup>

Both were equally determined to exercise and defend their prerogatives and above all to protect their exclusive right to choose their advisers, ministers and household staff, and make military and ecclesiastical appointments.<sup>525</sup> They both deplored the existence of parties and fought to avoid

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<sup>521</sup> Horwitz, *Parliament, Policy and Politics*, p. 269.

<sup>522</sup> *MGC*, p. 14 fn. 2; Marlborough to Godolphin 3 September 1701, p. 28, p. 29 fn.1.

<sup>523</sup> Snyder, 'Foreign and Domestic Policy', p. 144.

<sup>524</sup> Horwitz, *Parliament, Policy and Politics*, p. 248.

<sup>525</sup> Anne's assertion of control over military and ecclesiastical appointments is discussed in Smith, *Armies*, pp. 187-194; H.L. Snyder, 'Queen Anne versus the Junto: The Effort to Place Orford at the Head of the Admiralty in

wholesale reliance on either the Whigs or the Tories. William's antipathy to even the appearance of a single party engrossing his favour<sup>526</sup> was shared by Anne: 'All I desire is my liberty in encouraging and employing all those who concur faithfully in my service, whether they are called Whigs or Tories, not to be tied one to the other'.<sup>527</sup>

To the extent that Anne is accorded political importance, it is usually in the negative sense of this antipathy to parties frustrating her ministers' ability to pursue practical politics.<sup>528</sup> Certainly, Godolphin's efforts to secure Whig support from 1705 were made more difficult by her determined resistance to the appointment of Junto Whigs to office.<sup>529</sup> Although her opinions were very strong,<sup>530</sup> it is argued that she could not ultimately resist the inexorable logic of single party government, giving her no more than the power to delay.<sup>531</sup> On this interpretation, she could not initiate measures, or even control appointments to high office, exemplified by her failure to build a ministry round Harley in February 1708.<sup>532</sup>

Contemporary accounts other than Lady Marlborough's support this negative assessment. For example, Rochester's dedication to the second volume of his father's *History of the Rebellion* implied that Anne was hopelessly ignorant and should learn from Charles I's mistakes.<sup>533</sup> Cowper explicitly assumed that Anne could not resist her ministers and blamed Godolphin for the Junto's continued exclusion from office, rather than the Queen's determined opposition.<sup>534</sup> Similarly, believing that the Queen was under the Marlboroughs' control, the Junto assured Falaiseau, the Electress Sophia's

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1709', *Huntington Library Quarterly*, 1972, 35 (1972), pp. 323-342 and 'The Duke of Marlborough's request of his Captain Generalcy for Life', *Journal of the Society for Army Historical Research*, 45 (1967), pp. 67-83; and G. Bennet, 'Robert Harley, the Godolphin Ministry and the Bishoprics Crisis of 1707', *EHR*, 82 (1967), pp. 736-741.

<sup>526</sup> Horwitz, *Parliament, Policy and Politics*, p. 270.

<sup>527</sup> Curtis Brown, *Letters*, Anne to Godolphin, 30 August 1706, p. 196, resisting Sunderland's appointment as Secretary.

<sup>528</sup> Snyder, 'Foreign and Domestic Policy', p. 151; 'Queen Anne v the Junto', p. 342.

<sup>529</sup> Snyder, 'Queen Anne v the Junto', p. 330.

<sup>530</sup> For example, her refusal to re-employ Nottingham after his support for the 'Hanover Motion'.

<sup>531</sup> Holmes, *Great Power*, p. 225.

<sup>532</sup> Holmes, and Speck, 'Fall of Harley', pp. 694-698; A. McInnes, *Robert Harley, Puritan Politician* (Littlehampton, 1970), pp. 100-101; Gregg, *Queen Anne*, pp. 257-259.

<sup>533</sup> Winn, *Patroness*, p. 353.

<sup>534</sup> Snyder, 'Foreign and Domestic Policy', p. 151.

private representative in England, that Lady Marlborough would persuade Anne to assent to an invitation for Sophia to take up residence in England.<sup>535</sup>

These assessments require substantial revision, as Falaiseau realized. Explaining the effect of the Regency Act to Sophia, he wrote, 'I can tell you frankly that those who believe that the goal<sup>536</sup> could have been reached by any other means....know neither the Queen, who is very opinionated and quite ferocious, nor England.'<sup>537</sup> She was certainly stubborn: according to Marlborough she 'would never change her mind until she saw plainly that what was proposed ...was the only way for her to govern with quiet and safety.'<sup>538</sup> However, her ignorance and inexperience has surely been exaggerated. Harley recalled 'often attending on the Princess Anne by her command' in 1700, in order to provide her with information on current affairs.<sup>539</sup> It is also clear that Marlborough and Godolphin kept her and Prince George up to date with the Grand Alliance negotiations in 1701.<sup>540</sup> It is furthermore scarcely credible that she survived the treasonable intrigues of her father's reign, the Revolution, and the subsequent quarrels with her sister and William without acquiring basic political skills and an awareness of current affairs. She certainly became adept at discretion and dissimulation, for example maintaining an appearance of harmony with William, while privately detesting him, for the sake of her son and her pivotal position (after Queen Mary's death) as heir apparent to the Revolution monarchy. She clearly had regal ambition and intrigued to protect her interests. She assiduously spread the 'bedpan' rumour to discredit the birth of her half-brother in 1688, resisted William's being placed ahead of her in the line of succession in 1689, and corresponded with her exiled father in 1700 to ensure there was no Jacobite challenge to her accession.<sup>541</sup> Doubtless she benefited from the advice of her 'Cockpit Circle', centred on the

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<sup>535</sup> Gregg, *Queen Anne*, p. 209.

<sup>536</sup> Safeguarding the Protestant Succession.

<sup>537</sup> Gregg, *Queen Anne*, p. 209, p. 212.

<sup>538</sup> *MGC*, Marlborough to Lady Marlborough, 7 June 1708, p. 1014.

<sup>539</sup> Winn, *Patroness* p. 257; Gregg, *Queen Anne*, p. 119.

<sup>540</sup> *MGC*, Marlborough to Lady Marlborough, 4 July 1701 p. 7; Marlborough to Godolphin, 29 July 1701 p. 14.

<sup>541</sup> E. Gregg, 'Was Queen Anne a Jacobite?' *History*, 57 (1972), pp. 358-86.

Marlboroughs and Godolphin, but she was far from being entirely subject to it. For instance, she acted on her own initiative in defying the order to dismiss Lady Marlborough from her household after Marlborough's disgrace in 1692.<sup>542</sup> As Queen, the 1702 'Prince's Bill' and the Bill for Marlborough's lifetime allowance were her initiatives, and in 1709 she defeated Marlborough's attempt to secure a parliamentary address demanding Abigail Masham's dismissal by personally canvassing individual Whig lords.<sup>543</sup> As Marlborough told his wife regarding Anne's resistance to Sunderland's appointment as Secretary, 'you know that I have often disputes with you concerning [the Queen], and by what I have always observed that when she thinks herself in the right, she needs no advice to help her be very ferm and possative'.<sup>544</sup>

Anne also conducted important meetings and formal engagements without the presence of ministers. For example, following her audience with the Scottish Country Party delegation in March 1704, she personally recalled them to canvass their views on settling the Scottish succession.<sup>545</sup> She held audiences with Scottish politicians on other occasions, for example on 9 February 1705 with Seafield and Roxburgh<sup>546</sup> and had numerous solo interviews with Roxburgh.<sup>547</sup>

Her correspondence regarding Scotland shows that she possessed a great deal of common sense and a thorough understanding of the issues. Disagreeing with Lady Marlborough, she gave a clear statement of Court group policy in 1703:

I have read & heard all the accounts that are com from Scotland & am very sory to see things goe so ill there... for sertainly if the Union can ever be compassed there would be no occasion of naming a successor for then we would be one people & the endeavouring to make any Settlement

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<sup>542</sup> Gregg, *Queen Anne*, pp. 84-87.

<sup>543</sup> Gregg, *Queen Anne*, p. 303; Holmes, *British Politics*, pp. 209-210.

<sup>544</sup> *MGC*, Marlborough to Lady Marlborough, 29 July, p. 638.

<sup>545</sup> *Marchmont*, iii, Baillie to Lady Grisell, 9 March 1704, p. 263.

<sup>546</sup> *Jerviswood*, Roxburgh to Baillie, 10 February 1705, p. 46.

<sup>547</sup> For example, *Jerviswood*, Roxburgh to Baillie, 5 February 1705, p. 43; and Roxburgh to Baillie, 27 February, pp. 49-50.

now would in my poor opinion putt an end to the Union, which every body that wishes well to their Country must own would be a great happiness to both Nations...<sup>548</sup>

Another letter, responding to pressure from High Commissioner Argyll to reappoint Queensberry to the Scottish ministry, illustrates her working relationship with Godolphin:

It grates my soul to take a man into my service that has not only tricked me several times, one that has been obnoxious to his own countrymen these many years, and one that I can never be convinced can be of any use. But after all this, since my friends may be censured, and that it may be said if I had not been obstinate everything would have gone well, I will do myself the violence these unreasonable Scotsmen desire... The draft of the letter and instructions as you propose will certainly be much better than those that are come out of Scotland...<sup>549</sup>

This reveals her understanding that Queensberry's would be a divisive appointment, that he had undermined her attempt to settle the Scottish succession, that she understood the political consequences of resisting his appointment, and that she was concerned to protect her friends (the *Duumvirs*) from criticism. It also shows her collaborating with Godolphin to remodel the Instructions drafted by Argyll for her approval.

Anne deliberately made use of Elizabethan precedent to project her authority and made intelligent use of traditional pageantry and protocol to assert her right to the throne. She staged carefully choreographed public celebrations, such as victory thanksgiving services at St Paul's and the reception of the Emperor's son as Carlos III of Spain in October 1703.<sup>550</sup> Recognizing that her authority could not rest on her personal military achievements, she emphasized its sacral nature, for example by reviving the ceremony of touching to cure scrofula.<sup>551</sup>

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<sup>548</sup> Gregg, *Queen Anne*, pp. 184-185, citing Blenheim E 18, Queen to Lady Marlborough, 7 June [1703].

<sup>549</sup> Curtis Brown, *Letters*, Anne to Godolphin, 14 June 1705, pp. 160-161.

<sup>550</sup> Gregg, *Queen Anne*, p. 165; Bucholz, 'Nothing but Ceremony', pp. 291-300.

<sup>551</sup> H. Smith, "'Last of all the Heavenly Birth': Queen Anne and Sacral Queenship', *Parliamentary History*, 28 (2009), pp. 143-45.



Other factors made Anne politically formidable. She was English (not Dutch or German) and well-known for her commitment to Protestantism and to the Anglican Church. Above all, unlike William, she had a clear hereditary right to the throne (once the Pretender was excepted). She therefore attracted the loyalty of Tories who had scrupled to support William on anything other than a *de facto* basis. At the same time, she commanded Whig support, openly acknowledging that she did not rule by divine right but was Queen on the foot of the Revolution<sup>552</sup> and ruled through ministers and with the consent of the parliaments.<sup>553</sup> She had even spent some time in Scotland.<sup>554</sup> Consequently, she enjoyed widespread, genuine affection and loyalty, unlike William.

She therefore had both the ability and authority to make *positive* contributions to government and deserves credit for choosing and supporting talented advisers who could substitute for her own limitations. Marlborough in particular provided her with the military glory she could not achieve personally.<sup>555</sup> She resisted pressure first from the High Tories and then the Whigs to replace the Duumvirs, and sustained Godolphin against parliamentary censure over the Scottish Act of Security by reviving Charles II's practice of attending Lords' debates 'incognito'.<sup>556</sup> This contrasts sharply with William's failure to support Nottingham in 1693 and the Junto ministers in 1698-1700. Regarding policy, she not only fully endorsed war with France as a principal combatant (rather than as an auxiliary, as urged by Rochester) but also the Duumvirs' conduct of it against the alternatives proposed by Rochester and later by Nottingham. She set a public example of financial sacrifice by giving away £100,000 of her civil list revenues to the public<sup>557</sup> and pursued practical, non-partisan measures in favour of the Anglican Church, such as 'Queen Anne's Bounty', a package of measures to improve the condition of the lower clergy.<sup>558</sup>

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<sup>552</sup> *HMC Seafield*, Godolphin to Seafield, 24 July 1703, p. 199.

<sup>553</sup> Holmes, *British Politics*, p. 187

<sup>554</sup> During her father's time as Charles II's High Commissioner.

<sup>555</sup> Smith, 'Sacral Queenship', pp. 146-147.

<sup>556</sup> *Vernon*, iii, Vernon to Shrewsbury, 1 December and 8 December 1704, pp. 273-282; *Jerviswood*, Roxburgh to Baillie, 30 November 1704, p. 12.

<sup>557</sup> Gregg, *Queen Anne*, p. 154; Winn, *Patroness*, pp. 285-286.

<sup>558</sup> Burnet, *History*, v, pp. 118-123.

It is also striking that in the long run she generally got her own way. Initially, she was committed to the war, and was rewarded with unprecedented success. Later, she realized that peace was necessary, and an advantageous (if controversial) peace was negotiated. She succeeded in keeping Sophia and her son out of her kingdoms during her lifetime, but delivered the Protestant Succession. She also largely succeeded in escaping domination by the 'merciless' party men. It is therefore highly significant that she was very strongly committed the union of England and Scotland. At a time when it was politically very difficult openly to oppose the expressed will of the monarch, it is inconceivable that the Union could have been achieved had she not made it clear that it was her objective. The importance of her known wishes is reflected in the Lords' address over settling the Scottish succession in March 1704, which was careful to express support for union.<sup>559</sup> Her ambition for union was manifest not only from formal speeches, letters and instructions, but from her interventions at critical stages of the commissioners' meetings in 1702,<sup>560</sup> her attendance at the 1706 commissioners' meetings<sup>561</sup> and presence at the Lords' Treaty ratification debates in February 1707.<sup>562</sup> It was also explicit in private correspondence, such as that to Lady Marlborough cited above.

Anne, therefore, actively exercised significant political power and was committed to the union of England and Scotland. This obviously has important implications for understanding agency for the Union. How she was able to achieve this ambition requires an exploration of her relationship with the core members of her Court group.

### Anne and the Triumvirate

Recognition of the need for parliamentary management in England and Scotland<sup>563</sup> led to the emergence of a new type of politician: the 'manager' or 'undertaker,' who acted as a link between

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<sup>559</sup> *LJ*, xvii, p. 554.

<sup>560</sup> BL, Add Ms 61627, 18 November pp. 26-27 and 14 December 1702, pp. 57-60.

<sup>561</sup> Boyer, *Annals*, 5, 21 May, p. 32.

<sup>562</sup> Boyer, *Annals*, 5, 15 February p. 441, and 21 and 24 February, pp. 457-458.

<sup>563</sup> Above, p. 62 and pp. 69-70.

the monarch, ministers, politicians and parliaments to develop a 'scheme' for the management of each session of parliament.<sup>564</sup> Under William, after 1693, this function was broadly performed in England by the Earl of Sunderland. It was distinct from that of the favourites, Portland and Albemarle, whose political power derived exclusively from access to the King. It was distinct, too, from the Tory and Whig ministers of state, whose political power was based on their office, personal status and parliamentary support. Management of the Scottish parliament was conducted separately. It was usually delegated by the King and Portland (after consultation with Carstares) to the High Commissioner and Scottish Chancellor, who might be summoned to London to discuss the scheme for the business and management of the parliament before the opening of the session.<sup>565</sup>

The unique feature of Anne's reign, certainly up to the end of 1707, was that the roles of favourite, 'manager' and English Officers of State were combined in the persons of the Duumvirs, affording unprecedented unity and strength to the core Court group comprising Anne, the Duumvirs, and their ally, Harley.<sup>566</sup> As favourites, the Duumvirs enjoyed Anne's confidence and could leverage her political power. As senior English Officers of State commanding the army and Treasury, they exercised substantial political authority and extensive powers of patronage in their own right. As 'managers,' with Harley, they were the 'keystone' linking the monarch with politicians and parliament.<sup>567</sup> Contemporaries acknowledged the enormous power of this 'Triumvirate,' sometimes using the term pejoratively with the inference that it usurped the constitution.<sup>568</sup> While each had specialist offices, their activities were not confined by them. Beyond this core was a wider group which included Prince George, Pembroke, the Archbishop of York and Seafield.

Godolphin's role has sometimes been represented as confined to the funding of Marlborough's campaigns and diplomacy. In this, he was certainly enormously successful. For example, his 'rare

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<sup>564</sup> Holmes, *British Politics*, pp. 188-190; p. 346.

<sup>565</sup> Onnekink, 'Portland and Scotland', pp. 233-235, pp. 236-237, and p. 247.

<sup>566</sup> Snyder, 'Foreign and Domestic Policy', pp. 144-145; 'Godolphin and Harley', pp. 248-249.

<sup>567</sup> Holmes, *British Politics*, p. 192, pp. 416-417.

<sup>568</sup> As in Belhaven's speech, 2 November 1706: Defoe *History*, p. 322.

capacity and integrity' resulted in a 'startling' improvement in public credit, so that the long-term rate of interest on English government debt (as measured by the yield on government stock) fell from 7%-14% in the 1690s to 6%-7% in 1702-1714.<sup>569</sup> However, he also collaborated with Marlborough and Harley across a wide range of government activity throughout the Regal Union.<sup>570</sup> For example, he participated extensively in the formulation of war strategy, in which he clashed with Nottingham, as well as working with Harley to manage the English parliament. He also assumed the principal responsibility for Scottish affairs after Nottingham gave up in the summer of 1703,<sup>571</sup> authorizing the intelligence gathering for which Harley is usually given sole credit.<sup>572</sup> In keeping with the fluid processes of personal monarchy, the correspondence between Marlborough and Godolphin circumvented the formal constitutional relationship between the Queen and her other ministers, which was officially conducted exclusively through the Secretaries of State. For instance, Godolphin wrote directly to the Ambassador to Venice over bringing Venice into the Grand Alliance for the 1707 Toulon campaign,<sup>573</sup> and regularly corresponded directly with Seafeld as Chancellor of Scotland.<sup>574</sup> In summary, there was no aspect of policy within the Regal Union in which he was not involved.<sup>575</sup>

Similarly, Marlborough has been represented as concerned solely with war and diplomacy, with little interest in domestic affairs and Scotland, other than as a source of recruits.<sup>576</sup> This was not the case. He attended four union commissioners' meetings in December 1702, despite important personal business in parliament (concerning the Queen's proposals for his life grant);<sup>577</sup> he intrigued with Godolphin, Johnstone, Tweeddale and Seafeld in 1704 to replace Queensberry with Tweeddale and

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<sup>569</sup> J. Sperling, 'Godolphin and the Organization of Public Credit', unpublished PhD dissertation, Cambridge (1955) pp. vi-viii; Dickson, *Financial Revolution*, pp. 360-361 and p. 470.

<sup>570</sup> Snyder, 'Foreign and Domestic Policy', p. 153.

<sup>571</sup> BL, Add Ms 29595, ff. 237-238 and 245-247, Nottingham to Tarbat and Atholl, 17 July and 14 August 1703.

<sup>572</sup> *HMC Portland*, iv, Godolphin to Harley, 26 September 1703, pp. 68-69.

<sup>573</sup> Harris, *General in Winter*, pp. 229-230.

<sup>574</sup> For example, *LRS*, pp. 1-110.

<sup>575</sup> Snyder, 'Godolphin and Harley', p. 244, p. 255.

<sup>576</sup> Riley, *Union*, p. 47, and fn. 36.

<sup>577</sup> BL, Add Ms 61627, p. 44, p. 58, p. 69, and p. 74.

settle the Scottish succession;<sup>578</sup> he joined with Godolphin and Seafield at the end of 1704 to agree measures with Roxburgh,<sup>579</sup> and encouraged Johnstone to persuade his *Squadron* allies to support the Union in 1706.<sup>580</sup>

Although contemporaries referred to the 'Triumvirate', Harley in fact was an 'independent power',<sup>581</sup> politically allied to Godolphin since 1698<sup>582</sup> and Marlborough from 1701. His primary importance to them lay in his influence in the House of Commons in the period from 1698 to 1705.<sup>583</sup> Union historiography generally follows narratives which contrast his parliamentary management skills favourably with Godolphin's,<sup>584</sup> although other studies conclude that Godolphin was thoroughly competent in this respect.<sup>585</sup> The Duumvirs' break with the Tory leadership in Spring 1704, followed by Harley's replacement of the Tory Nottingham as Secretary, and his role in the defeat of the Tack later that year,<sup>586</sup> combined to reduce his efficacy as manager of a Tory-dominated Commons. It was further undermined by the relative success of the 'Tackers' and Whigs in the 1705 election. Godolphin and Harley increasingly differed over strategies for managing the new English parliament, and it was with some difficulty that the Court group's candidate, Smith, was elected Speaker, Harley's preferred candidate, Harcourt, having proved unacceptable to the Whigs.<sup>587</sup> There was no love lost between the Junto Whigs and Harley,<sup>588</sup> following his role in the attempted impeachments of Junto ex-ministers in 1701. This naturally limited his usefulness to the Duumvirs, who sought Whig support to counter the obstructive behaviour of the High Tory leadership over the 'Hanover' and

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<sup>578</sup> BL, Add Ms 34180, f. 40 Seafield to Godolphin, 30 May 1704.

<sup>579</sup> *Jerviswood*, Roxburgh to Baillie, 4 January 1705, p. 30.

<sup>580</sup> *MGC*, Marlborough to Godolphin, 8 August 1706, p. 647 and fn.7; and 7 October 1706, p. 703 and fn.1; Godolphin to Marlborough, 13 October 1706, p. 709.

<sup>581</sup> Harris, *General in Winter*, p. 101.

<sup>582</sup> *HMC Bath*, i, Harley to Godolphin 21 July 1705, p. 73.

<sup>583</sup> A. Macinnes, 'The appointment of Harley in 1704', *The Historical Journal*, 11 (1968), pp. 258-266.

<sup>584</sup> For example, Ferguson, *Relations*, p. 200.

<sup>585</sup> For example, Snyder, 'Godolphin and Harley', pp. 241-242, pp. 247-249 and S. Matzuzono 'The House of Lords and the Godolphin Ministry', unpublished PhD thesis, University of Leeds (1990).

<sup>586</sup> H.L. Snyder, 'The Defeat of the Occasional Conformity Bill and the Tack: A Study in the Techniques of Parliamentary Management in the Reign of Queen Anne', *BIHR*, 41 (1968), pp. 177-185.

<sup>587</sup> Speck, 'Choice of Speaker', pp. 21-35.

<sup>588</sup> NUL, PwA, Anonymous to Portland, 27 July, 1705.

'Church in Danger' motions.<sup>589</sup> Court group unity was further eroded by Harley's exploitation of his position as Secretary, which gave him regular access to the Queen, to establish his own confidential relationship with her, and by the deteriorating relationship between the Queen and Lady Marlborough. The Court group ultimately collapsed in February 1708 with the Queen's unsuccessful attempt to build a ministry around Harley.<sup>590</sup>

Until this point, the Court group derived enormous political strength from the alignment of the Triumvirate's objectives with the Queen's. These were set out in Anne's opening speeches to the English parliaments in 1702: participation in the Spanish Succession war as a principal combatant, not as an auxiliary; securing the Protestant Succession; support for the Church of England (while preserving the 'Toleration'); and union with Scotland.<sup>591</sup> The Triumvirate also shared the Queen's concern to protect her prerogatives and maintain her independence from party. Marlborough and Godolphin would work with anyone who supported Court group objectives, detesting 'the names of Wigg and Torry'.<sup>592</sup> Harley shared their objections to party government<sup>593</sup> and made innovative use of the press to promote 'moderation' as an alternative to partisan conflict.<sup>594</sup>

This alignment of objectives was reinforced by personal attachments. Godolphin and Marlborough were not only political allies but close friends, connected by the marriage of Godolphin's son to one of Marlborough's daughters. This friendship included Lady Marlborough, whose key Bedchamber offices and intimacy with the Queen encouraged her to participate in high-level politics, ultimately with disastrous results for the Duumvirs. The Marlboroughs and Godolphin were the core of Anne's 'Cockpit' circle during William's reign, and therefore on intimate terms with the Queen and Prince

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<sup>589</sup> Gregg, *Queen Anne*, pp. 209-212; C. Jones, 'Debates in the House of Lords on 'The Church in Danger', 1705, and on Dr Sacheverell's Impeachment, 1710', *The Historical Journal*, 19 (1976), pp. 760-762.

<sup>590</sup> Harris, *General in Winter*, pp. 218-235; Snyder, 'Godolphin and Harley', pp. 259-271; Holmes and Speck, 'Fall of Harley', pp. 685-698; Bennet, 'Bishoprics Crisis', pp. 732-746.

<sup>591</sup> *LJ*, xvii, 11 March and 21 October 1702, p. 68 and p. 156.

<sup>592</sup> *MGC*, Marlborough to Lady Marlborough, 9 October 1704, pp. 384-385.

<sup>593</sup> McInnes, *Harley*, pp. 103-109; Snyder, 'Godolphin and Harley', p. 245. For the religious roots of Harley's 'moderation', see D. Hayton, 'Robert Harley's Middle Way: The Puritan Heritage in Augustan Politics', *The British Library Journal*, 15 (1989) pp. 165-168.

<sup>594</sup> J.A. Downie, *Robert Harley and the Press* (Cambridge, 1979), pp. 57-73.

George, with whom they famously shared cant names.<sup>595</sup> The Queen's attachment to the Marlboroughs and Godolphin is evident from the well-known letter to Lady Marlborough in May 1703 when the pressures of diplomatic and military responsibility and death of his son first prompted Marlborough to talk of resignation:

The thoughts that both my dear Mrs Freeman and Mr Freeman seems to have of retiring give me no small uneasiness...It is no wonder at all people in your posts should be weary of the world, who are so continually troubled with all the hurry and impertinences of it; but...you should a little consider your faithful friends and poor Country, which must be ruined if ever you should put your melancholy thoughts in execution. As for your poor, unfortunate, faithful Morley, she could not bear it; for if ever you should forsake me, I would have nothing more to do with the world, but make another abdication; for what is a crown when the support of it is gone? I never will forsake your dear self, Mr Freeman, nor Mr Montgomery, but will always be your constant faithful friend, and we four must never part till death mows us down with his impartial hand.<sup>596</sup>

Making allowances for Anne's powers of dissimulation and extravagance of expression, it is evident that she saw her relationship with the Duumvirs as a *partnership* and not a delegation or still less an abdication of power. Indeed, she benefitted from Marlborough's spectacular military accomplishments by allowing him effectively to operate as an appendage to her rule.<sup>597</sup>

Her confidence in their commitment to preserve her independence from party, even when they were asking her to promote Whigs against her inclinations, is plain when she told Godolphin:

There is nobody I can rely on but yourself to bring me out of all my difficulties and I do put an entire confidence in you, not doubting but you will do all you can to keep me out of the power of

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<sup>595</sup> The Queen and Prince were Mrs. and Mr. Morley, the Marlboroughs Mr. and Mrs. Freeman, and Godolphin Mr. Montgomery.

<sup>596</sup> Curtis Brown, *Letters*, Anne to Godolphin, p. 125.

<sup>597</sup> Smith, 'Sacral Queenship', p. 147.

the merciless men of both parties, and to that end make choice of one for Lord Keeper that will be the likeliest to prevent that danger.<sup>598</sup>

Earlier that year, concerning the proposal to make Sunderland Ambassador to Vienna, she reassured Godolphin:

I beg you would not be so unkind as to think I am uneasy at what you say, for indeed I am not, but take all things that come from you as they are meant. I depend entirely on your friendship, which I hope you will continue to me as long as I live, and never think of leaving me, for that would be a blow I could never support.<sup>599</sup>

Although shaken by the further Whig appointments which the Duumvirs urged on her after 1705, this confidence endured beyond the appointment of Sunderland as Secretary in 1706 until her attempt to replace Godolphin with Harley in February 1708. Even after the complete breakdown of her relationship with the Marlboroughs, she was still reluctant to part with Godolphin in 1710.<sup>600</sup>

Anne's confidence in the Duumvirs was reciprocated by a sincere desire on their part to promote her interests. For them, the contemporary expression, 'the Queen's servants' was no platitude. Even if Marlborough took care to secure his own wealth, position and posterity, he was devoted to the Queen's service, telling Godolphin during the 1705 elections, 'the unreasonable heats of the party makes me pity you with all my heart. But you must do as I do, in spit[e] of all the vexations we meet, serve her Majesty, and when this warr is well ended, we may then think of enjoying some quiet'.<sup>601</sup> In 1706, lamenting his failure to persuade Anne that her government required Whig support, he told his wife 'nothing can ever hinder me from being ready to lay downe my life when she can think it is for her service, for I serve her with an intier affection as well as the utmost duty'.<sup>602</sup> Godolphin shared this devotion. He told Lady Marlborough that he deplored the prospect of

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<sup>598</sup> Curtis Brown, *Letters*, Anne to Godolphin, 11 July 1705, p. 172.

<sup>599</sup> Curtis Brown, *Letters*, Anne to Godolphin, May-June 1705, p. 165.

<sup>600</sup> Holmes, 'Ministerial Revolution', p. 281; *British Politics*, p. 205.

<sup>601</sup> *MGC*, Marlborough to Godolphin, 16 May 1705, p. 432.

<sup>602</sup> *MGC*, Marlborough to Lady Marlborough, 7 October 1706, p. 705.



proposing Sunderland as ambassador to Vienna, as 'I have little pleasure in saying anything that makes her uneasy. But there is a necessity of doing so for her own sake, or else [my] concern would not prevail mee to goe about it'.<sup>603</sup>

This alignment of objectives and mutual trust rendered the Court group extraordinarily effective in a way that had not been witnessed in earlier reigns. The heavy burden of co-ordinating 'business' in the Regal Union during wartime could be shared so that Marlborough was able to specialize in the conduct of war and diplomacy, Godolphin and Harley on parliamentary management and finance, and Godolphin and the Queen on union.

It should, however, be noted that Anne did not share all aspects of government with the Duumvirs, excluding them from ecclesiastical patronage, relying for advice on Archbishop Sharpe of York and to a lesser extent, Harley.<sup>604</sup> Initially, too, she obliged them to share power with prominent Tories.<sup>605</sup> As the Queen's uncle and a former Lord Treasurer, Rochester's claim on that office was particularly strong, and Marlborough had to work hard to secure it for Godolphin, leaving Rochester to continue as Lord Lieutenant of Ireland. Thereafter, the Duumvirs were obliged to manage further challenges from the Tory leaders. These included Rochester's opposition to the declaration of war in May 1702 and the commitment to the Flemish theatre, Seymour's forcing of a division over the union commissioners bill in March 1702, and his opposition to the 'Prince's Bill'. Although Godolphin sent the Queen's speech for the new 1702 parliament to Harley for comment before Rochester and Nottingham could see it,<sup>606</sup> Rochester succeeded in inserting the phrase 'my heart is entirely English'

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<sup>603</sup> *MGC*, Godolphin to Lady Marlborough, 18 May 1705, p. 433.

<sup>604</sup> Gregg, *Queen Anne*, pp. 146-147.

<sup>605</sup> Holmes, *British Politics*, p. 198.

<sup>606</sup> *HMC Portland*, iv, Godolphin to Harley, 6 September 1702, p. 47.

against the wishes of the Duumvirs, who did not want to risk upsetting the Dutch.<sup>607</sup> At a personal level, despite the Queen's support, the Duumvirs suffered defeat at Tory hands over Marlborough's life grant.<sup>608</sup> Nottingham subsequently sought to control war strategy, overruling the Duumvirs over the transfer of troops from Flanders to Portugal to make up the numbers required under the terms of the Portuguese alliance. Most worryingly from the perspective of securing war finance, the Tory leaders promoted highly divisive 'Occasional Conformity' bills which threatened to provoke opposition in the Whig dominated House of Lords, and frustrate the timely vote of supply for the war.<sup>609</sup>

Without Marlborough's military success it is doubtful that he and Godolphin would have been able ultimately to overcome these challenges. As it was, Marlborough's achievements in 1702 meant that the Queen was ready to support him against Rochester, who resigned in February 1703, and Nottingham, who resigned in April 1704 following her dismissal of Seymour and Jersey. The scale of Marlborough's victory at Blenheim in August 1704 ensured the Triumvirate's ascendancy, at least for the present. By the end of 1704 it was clear that he and Godolphin dominated British politics, exemplified by the debilitating effect of their indisposition on meetings with Seafield and Roxburgh to agree measures for Scotland.<sup>610</sup> Reinforced by another overwhelming victory at Ramillies in May 1706, the Duumvirs' ascendancy persisted till beyond Harley's fall and the Whig election victory in 1708.

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<sup>607</sup> Harris, *General in Winter*, p. 96.

<sup>608</sup> Harris, *General in Winter*, p. 112.

<sup>609</sup> *HMC Portland*, iv, Godolphin to Harley, 10 December 1702, p. 53.

<sup>610</sup> *Jerviswood*, Johnstone to Baillie, 22 February 1705, p. 49.

## Conclusion

There was no step-change in the decline of monarchical power and the development of Cabinet or parliamentary government in the period from Anne's accession to Harley's dismissal. Anne's political power has been under-rated and there is no evidence that the English Cabinet had agency for the Union. What *was* different about this period was the mutual confidence, intimacy and regard, shared outlook and common objectives of Anne and her closest advisers, which created a Court group of unprecedented strength, coherence and unity. It was therefore able to manage the English parliament more effectively than at any time since 1603<sup>611</sup> and to provide stable leadership for the whole Regal Union. It drew further strength from its spectacular military successes which reached its apogee after the removal of the Tory leadership from English high office in 1704 and the victories of Blenheim and Ramillies. It endured despite growing internal tensions over the admission of Whigs to office until Harley's dismissal in February 1708.

Consequently, in this period, the Court group was substantially able to realize its objectives. It suffered no significant defeat in the English parliament except over Marlborough's life grant in 1702 and the abolition of the Scottish Privy Council in early 1708. This achievement contrasts markedly with William's reign, in which Court groups suffered numerous, serious defeats in all three parliaments and to which Plumb's image of kaleidoscopic ministerial change seems altogether more appropriate.

If the Court group were so uniquely powerful in 1702-1708, however, how does this reconcile with the narratives discussed in Chapter 1, which argue that English parliamentary politics and party conflict provide the interpretative framework for the Union and attribute its realization to the Whigs?<sup>612</sup> This puzzle is considered in the next chapter.

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<sup>611</sup> Holmes, *British Politics*, p. 416.

<sup>612</sup> Above, pp. 31-34.

## Chapter 5 The Court Group and the English Parliament

### Introduction

This chapter continues the exploration of agency for the Union by considering whether it was the outcome of party conflict in the English parliament. This is necessary because Union scholarship continues to follow 20<sup>th</sup> century studies which argue that such conflict provides the 'indispensable framework' for understanding contemporary English political motives and actions.<sup>613</sup> Accordingly, while recent scholarship has argued for the importance of Scottish political or economic pressure in the origins of the Union, it has not reassessed the view that the Union emerged from a Whig-led English parliamentary reaction to this pressure. This chapter challenges these narratives and argues that in the period from Anne's accession to Harley's dismissal, the Court group was substantially able to pursue its own distinct objectives independent of party and parliament, and that these objectives included union. The Union was not, therefore, a by-product of English party politics, but rather the outcome of deliberate Court group choice.

It begins with an overview of English party divisions in the period from Anne's accession to Harley's dismissal which questions the relevance of principle-based party conflict for understanding the Union's origins. It then considers the main narratives of Whig agency, before reviewing the ministerial changes which support claims that the English ministry at the time of the Union was essentially 'Whig'. Finally, it examines the Whigs' role at key stages in the evolution of the Union. On this basis, it concludes that a Whig-led English parliamentary reaction to Scottish pressure was not responsible for the Union.

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<sup>613</sup> Above, pp. 32-34.

## English party conflict as an interpretative framework

This study does not argue that parliamentary politics and party conflict were unimportant in 1702-1708, or that they could be ignored by the Court group. Rather, it argues that *in this period* the Court group was remarkably successful in the difficult task of managing them. This enabled it to initiate and pursue independent policy to a much greater extent than Union historiography has recognized. Accordingly, policy initiative lay with the Court group, not the parties, while persons and parties competed to demonstrate that they were the fittest to implement Court group policy. In Harley's words, 'the foundation is, persons or parties are to come in to the Queen, and not the Queen to them'.<sup>614</sup>

The Court group's success in this respect was attributable in large part to the coherence and unity described in the previous chapter. As discussed below, it also benefitted from circumstances overlooked or under-rated by narratives focusing on the 'rage of party'.

From the settlement of the succession in 1701 and the declaration of war with France in May 1702, to the failure of the Toulon expedition and the defeat at Almanza in 1707, principle-based differences between the English parties narrowed significantly in respect of core Court group objectives, as set out in Anne's opening speeches to the English parliaments in 1702. As noted above,<sup>615</sup> these concerned the Spanish Succession war, the Protestant Succession, sustaining the Church of England, and union with Scotland. In these conditions 'no-party government' was feasible since either party could be threatened with replacement by the other and divisions within them could be exploited. Consequently, from 1701, party leaders competed to show that they could execute Court group policy.<sup>616</sup> For example, after their reinstatement to high office in 1701, the Tory leaders settled the Protestant Succession in England and procured unprecedented peace-time

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<sup>614</sup> *HMC Bath*, i, Harley to Godolphin, 4 September 1705, p. 74.

<sup>615</sup> p. 133.

<sup>616</sup> P. Yorke, Earl of Hardwicke (ed.) *Miscellaneous State Papers: from 1526-1726*, volume ii (London, 1778), King to Sunderland, 1 September 1701, pp. 443-444; Horwitz, *Parliament, Policy & Politics*, pp. 300-301.

supply in anticipation of war,<sup>617</sup> while in 1702 Seymour led the address to the King asking that recognition of the Protestant Succession be included in the Grand Alliance's war aims.<sup>618</sup> Although Whigs saw themselves as the natural leaders of a war to defend the Revolution,<sup>619</sup> Anne's accession meant that most Tories had no principled objection to a war to defend her right to the throne. There is also evidence that both parties sought to show support for William's wish for a union of England and Scotland. A Lords committee to promote union, composed exclusively of Whigs, was established in June 1701,<sup>620</sup> while in the February 1702 Lords debate over the abjuration of the Pretender, Nottingham urged the importance of union.<sup>621</sup> This competition to serve the Court group continued up to and beyond the Union. For example, it was the basis for the abortive 'moderate scheme' explored in December 1707-January 1708.<sup>622</sup>

In support of this argument, it is instructive to consider the differences of principle between the parties that are represented to have existed in 1702-1708. It is, for example, overly simplistic to maintain that throughout Anne's reign Tories advocated a 'blue water' war strategy while Whigs supported continental involvement.<sup>623</sup> For instance, Whig leaders argued for war in the West Indies to deprive France of benefit of Spanish bullion,<sup>624</sup> while in 1703 Harley reported that the 'hot people of both sides' complained of the futility of campaigning in Flanders.<sup>625</sup> There was in fact a spectrum of opinion across both parties which evolved as the war progressed,<sup>626</sup> and a broad consensus over

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<sup>617</sup> *MGC*, Godolphin to Marlborough, 9 September 1701, pp. 31-33.

<sup>618</sup> Horwitz, *Parliament, Policy & Politics*, p. 301.

<sup>619</sup> See William's correspondence with Somers and the Earl of Sunderland, *Hardwicke State Papers*, ii, pp. 444-456, particularly Somers' paper at pp. 455-456.

<sup>620</sup> *LJ*, xvi, p.740, p.747 and p.768.

<sup>621</sup> Burnet, *History*, iv, p. 544; *HMC Marchmont*, Pringle to Marchmont, 26 February 1702 p. 154. Riley, however, argues that Nottingham was attempting to deflect parliamentary attention from the Abjuration Bill: 'Union as an Episode in English Politics', p. 501.

<sup>622</sup> Harris, *General in Winter*, pp 226-228; Gregg, *Queen Anne*, pp. 255-257; Holmes and Speck, 'Fall of Harley', pp. 683-684; Snyder, 'Godolphin and Harley', pp. 265-266.

<sup>623</sup> Holmes, *Britain after the Glorious Revolution*, pp. 20-22.

<sup>624</sup> *HMC Bath*, i, Halifax to Rivers, 27 January 170[7] p. 155. Snyder, 'Foreign and Domestic Policy', pp. 150-151; See T.J. Denman, 'The Political Debate over War Strategy 1689-1712,' unpublished PhD thesis, Cambridge (1985) pp. 138-145, for widespread interest in a West Indies strategy.

<sup>625</sup> Harris, *General in Winter*, p. 127. *MGC*, Marlborough to Lady Marlborough, 11 October 1703, p. 253, citing Harley's warning to Godolphin.

<sup>626</sup> See Denman, 'War Strategy', pp. 146-212 for this evolution up to 1707.

the need to avoid campaigning in Flanders, the importance of the Peninsular commitment<sup>627</sup> and Admiralty mismanagement.<sup>628</sup> It was only later, after the failures at Toulon and Almanza in 1707 and the collapse of peace negotiations, that principled differences began to emerge between Whig and Tory over war strategies, with the Whigs and Duumvirs seeking to 'gain Spain by France' and the Tories preferring Spanish or colonial solutions.

Party divisions over the Union have similarly been simplified,<sup>629</sup> reflecting its subsequent appropriation by Whigs as their unique achievement in contrast to alleged Tory indifference or hostility.<sup>630</sup> As the 'Church Party', the Tories were naturally concerned about union's implications for the Anglican Church, but as with the war, there was a spectrum of views on Scotland in both parties. Seymour's notorious comments on Scotland<sup>631</sup> are consistent with those of Whig speakers such as Halifax, Mohun and Grey of Wark in the 'state of the nation' debates over the Scottish Act of Security: xenophobia was no Tory monopoly.<sup>632</sup> The Alien Act, under which the Queen was authorized to appoint English commissioners to negotiate union, was carried in a Tory-dominated Commons and endorsed (with reservations) in the Lords by High Tories such as Rochester.<sup>633</sup> However, many, both Whigs and Tories, preferred settlement of the Hanoverian Succession in Scotland to the expected difficulties and delays involved in the negotiation of a union.<sup>634</sup> Wharton's speech in favour of union on 11 December 1704 typically sought to score party points,<sup>635</sup> but no more evidences an exclusive Whig commitment to union than his speech one year later against the

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<sup>627</sup> Snyder, 'Formulation of Policy', pp. 147-149.

<sup>628</sup> Burnet, *History*, v, pp. 342-347.

<sup>629</sup> Holmes, *Great Power*, pp. 309-310.

<sup>630</sup> Defoe, *History*, pp. 76-77.

<sup>631</sup> *Vernon*, ii, 16 January 1700, pp. 408-411.

<sup>632</sup> *Nicolson*, 23 November, 11 December 1704, pp. 233-235, and p. 250.

<sup>633</sup> *Nicolson*, 20 December 1704, pp. 256-257.

<sup>634</sup> For Tory objections to union, see Haversham, quoted in *Jerviswood*, Johnstone to Baillie, 21 December 1704, p. 26; for Whiggish objections, see BL, Add Ms 28055, f. 210, Annandale to Godolphin, 1 June 1705.

<sup>635</sup> *Nicolson*, 11 December 1704, p. 249.

'Church in Danger' motion evidences a sincere commitment to Anglicanism.<sup>636</sup> Indeed, as discussed below, the Junto only committed to union at the end of 1705.<sup>637</sup>

Certainly, party conflict existed in this period. However, it principally concerned competition for *office* at both ministerial and local levels,<sup>638</sup> and pressure for ministries that were 'of a piece'.<sup>639</sup> Only rarely did party leaders try (in Godolphin's words) to 'wrest the Administration out the Queen's hands' and change *policy*.<sup>640</sup> The impact of parliamentary pressure and party conflict on the *formulation* of policy in this period was therefore strikingly limited. Certainly, important differences of principle existed, notably over the Dissenting practice of 'occasional conformity' (although even this involved the calculation that its penalization would exclude Whigs from office in corporations). This did not, however, directly concern core Court group policy, although it did provoke parliamentary disputes which threatened it, chiefly by threatening supply for the war.<sup>641</sup> In this respect it is supremely significant that the High Tory attempt to force the Court group to embrace measures to restrain occasional conformity, by tacking the third Occasional Conformity Bill to the supply bill in 1704 (the 'Tack') completely failed. Court group policy on both the prosecution of the war and the 'unseasonableness' of occasional conformity legislation remained unaffected. Indeed, its successful pursuit of its war strategy and ability to secure war finance without being obliged to make policy concessions was remarkable given the Tories' Commons majority in both the 1702-1705 and 1705-1708 parliaments, and the Whigs' albeit precarious Lords majority throughout. This was achieved notwithstanding the exclusion from office of the High Tory leaders after April 1704 and of the Junto until December 1706. This more than anything else demonstrates Court group independence from party politics.

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<sup>636</sup> *Nicolson*, 6 December 1705, pp. 320-325.

<sup>637</sup> Below, pp. 147-148 and pp. 162-164.

<sup>638</sup> Plumb, *Stability*, pp. 152-153.

<sup>639</sup> For example, *MGC*, Godolphin to Lady Marlborough, 18 April 1704, pp. 280-281; *Cowper*, pp. 11-12.

<sup>640</sup> NUL, PwA, 410, Anonymous to Portland, 25 July 1705.

<sup>641</sup> For example, *HMC Portland*, iv, Godolphin to Harley, 10 December 1702, p. 53.



The historiographical consensus that the Whigs were more coherent and disciplined than the Tories, and readily submitted to Junto leadership also requires modification. Except on issues of fundamental principle (such as Dissent, the Protestant Succession, and war) the Whigs in this period were scarcely less fragmented than the Tories. For example, during the Court group's alliance with the High Tories in 1702-1704, independent, non-Junto Whigs remained in office at both Cabinet and junior minister level.<sup>642</sup> Following the breach with the High Tories in 1704, additional independent Whigs were appointed to high office in 1705.<sup>643</sup> Thereafter, Godolphin developed his own Whig group, the 'Lord Treasurer's Whigs',<sup>644</sup> which resisted the Junto's assault on the Court group in the 1707-1708 parliamentary session.<sup>645</sup> To a large extent, Whig coherence after 1710 was, like Tory coherence after 1698 and 1705, a consequence of exclusion from office. Indeed, after they returned to office in 1714, they split in 1717 between Sunderland and Stanhope's supporters and those of Walpole and Townshend.

This is not to argue that principle-based party conflict over Court group objectives was absent from Anne's reign. Rather, it is to argue that it was much less significant in the early years of her reign than in the later years. From 1710, the fall of the Duumvirs, the deterioration of the Queen's health and the growing realization that British war aims were unachievable stimulated renewed principle-based party conflict over the succession and peace negotiations. Further, successive general elections and proscriptions of local office-holders had intensified party animosity to unprecedented levels. Together, these made the 'ideal of no-party government' increasingly untenable.<sup>646</sup>

Failure to recognize the different conditions in the first part of Anne's reign has profoundly influenced Union historiography. On the assumptions that deep issues of party principle divided parliament, Plumb and Holmes argued that 'stable' government was ultimately only possible with

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<sup>642</sup> Somerset and Devonshire attended Cabinet meetings; outside the Cabinet, Boyle was Chancellor of the Exchequer.

<sup>643</sup> Newcastle as Lord Privy Seal and Cowper as Lord Keeper.

<sup>644</sup> These included Walpole as well as Boyle, Speaker Smith and Irish Paymaster General Coningsby.

<sup>645</sup> Holmes, *British Politics*, p. 229.

<sup>646</sup> Holmes, *British Politics*, p. 403.

one-party rule.<sup>647</sup> Accordingly, the Court group's attempt to preserve its independence from party in 1702-1707 resulted in weak, unstable ministries which were highly vulnerable to party pressure. Only after 'the uncomfortable coalitions of the first half of Anne's reign' were 'cast aside in 1708'<sup>648</sup> and replaced by single-party ministries could coherent policy be delivered. It follows that the Union cannot have originated in policy and must have been a by-product of party conflict.

### Narratives of Whig agency

As outlined in Chapter 1,<sup>649</sup> recent Union scholarship broadly follows Riley, Holmes and Speck in awarding agency for the Union to the English Whigs, following the Triumvirs' rupture with the English High Tories, the failure to settle the Protestant Succession in Scotland, and Anne's assent to the Scottish Act of Security in 1704.<sup>650</sup> This is an attractive argument because it explains why the 1700 Darien crisis<sup>651</sup> had limited political traction in England: the English parliament was not in session from April 1700, so the Court group's Scottish problems could not become English political liabilities as they did in 1704.

These narratives make the 'state of the nation with respect to Scotland' debates in the Lords from 29 November 1704 the turning point when Whig influence over the Court group was established. Based largely on a note added by Dartmouth to Burnet's *History*, they represent the Junto as rescuing a struggling Godolphin from censure after a hurried conference on the floor of the House,<sup>652</sup> and procuring a week's adjournment enabling them 'to treat with the Court about an understanding in *English affairs*'.<sup>653</sup> When the debate resumes on 6 December, the Junto propose that new English legislation is the appropriate response to the Act of Security and the other 'four Acts'. Draft legislation is introduced on 11 December which, after further debate, is agreed on 20 December and

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<sup>647</sup> Holmes, *British Politics*, p. 381, p. 403; Plumb, *Stability*, p. 156.

<sup>648</sup> R. Eagles, 'Geoffrey Holmes and the House of Lords Reconsidered', *Parliamentary History*, 28 (2009), p. 17.

<sup>649</sup> Above, pp. 31-32.

<sup>650</sup> Riley, *Union*, pp. 119-120; Holmes, *British Politics*, p. 110.

<sup>651</sup> See above, pp. 75-78 and below, pp. 187-199.

<sup>652</sup> Burnet, *History*, v, pp. 182-84.

<sup>653</sup> *Jerviswood*, Roxburgh to Baillie, 30 November and Johnstone to Baillie, 2 December 1704, p. 12 and p. 15 (emphasis added); *Nicolson*, 29 November, pp. 238-240.

sent to the Commons for approval. This legislation empowers the Queen to appoint commissioners to negotiate a union with Scotland (if the Scots do likewise) and provides for the treatment of Scots as aliens under English law, and for the imposition of economic sanctions, if Scotland failed to legislate either for the Protestant Succession or the appointment of union commissioners.<sup>654</sup>

This core narrative is shared by Riley, Holmes and Speck. On account of their powerful influence on Union historiography, it is useful to examine in detail not only the differences between Riley's analysis and that of Holmes and Speck,<sup>655</sup> but also significant issues which they have in common. As Speck broadly follows Holmes, it is convenient to consider them together.

Riley makes the tension between Junto-led Whig pressure for office and a weak Court group the mainspring of his narrative.<sup>656</sup> He argues that Scottish measures were driven almost exclusively by the Junto's determination to leverage their narrow majority in the Lords to recover high office. Having dismissed earlier union negotiations in 1702-1703 as stillborn,<sup>657</sup> he attributes the Court group's 1704 succession initiative to Junto pressure. After its failure, he has the Junto rescue Godolphin from Tory censure over the four Acts in return for concessions over place and policy in both England and Scotland.<sup>658</sup> They have no desire for union, believing it will weaken their position in the Lords, and are even prepared to undermine the settlement of the Scottish succession in order to bring pressure on the Court group.<sup>659</sup> They ostensibly agree to support the Court group's union 'policy' but cunningly, the 'coercive' approach on which they insist ultimately only allows Scotland to escape sanctions if it legislates for the Hanoverian Succession.<sup>660</sup> Finding in 1705 that the Scottish

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<sup>654</sup> This narrative derives from a wealth of primary evidence: *LJ*, xvii, pp. 591-592, p. 596, pp. 602-603, pp. 605-606; *Nicolson*, 6-10 December 1704, pp. 244-246, pp. 249-250, and pp. 253-257; *Vernon*, iii, 1 December and 8 December 1704, pp. 276-282; and *Jerviswood*, Johnstone to Baillie and Roxburgh to Baillie, 7 December, pp. 16-18; Roxburgh to Baillie, 12 December, p. 21; Johnstone to Baillie, 12 December, pp. 22-23 and 21 December 1704, p. 26.

<sup>655</sup> Outlined above, pp. 31-32.

<sup>656</sup> Riley, *Union*, pp. 71-72, pp. 103-104, pp. 119-124, pp. 151-152 and pp. 163-171.

<sup>657</sup> Riley, *Union*, pp. 178-182.

<sup>658</sup> Riley, *Union*, pp. 119-123. Curiously, he does not have them extract concessions for their support over the Tack.

<sup>659</sup> Riley, *Union* pp. 103-104; *Nicolson*, p. 248.

<sup>660</sup> Riley, *Union*, pp. 121-123.

parliament would not settle the succession (notwithstanding the threatened sanctions) but that it had empowered the Queen to appoint union commissioners, the Junto switch from prioritizing the succession to promoting union in order to secure their influence in a British parliament. They therefore embrace not only the repeal of the Alien Act's provisions for treating Scots as aliens (demanded by the Scottish parliament as a prerequisite of negotiations) but also its threatened economic sanctions. They then pressure the Court group in the 1705-1706 session through the introduction of a place clause (the 'Whimsical Clause') in the Regency Bill to secure control over the English union commission.<sup>661</sup>

Holmes similarly makes the Union a Whig achievement in the context of a distracted Court group and a disciplined Whig party which assumes control of the project.<sup>662</sup> Like Riley, Holmes dismisses the significance of earlier union negotiations, but differs in two important respects. Firstly, he argues that principle as well as self-interest motivated the Junto;<sup>663</sup> and secondly, he does not argue for their influence on Scottish policy before the 'state of the nation' debates in November-December 1704. Thereafter he makes the Junto responsible for 'initiating the Aliens bill' by bringing 'shrewdly applied pressure' on Godolphin, so that the Whigs are the 'principal architects' of the Union. Unlike Riley's Junto, their principled commitment to the war and Protestant Succession allows them to await appointment to high office until the winter of 1707-1708, on the basis that the Court group had now embraced Whig policies.<sup>664</sup> He argues that the apparent inconsistency between their initial insistence on settling the Scottish succession and their later commitment to union is explained by their clear sense of priorities.<sup>665</sup>

Both narratives share common problems. Firstly, the premise that the Junto exercised a controlling influence over other Whigs allows the interchangeable use of 'Whig' and 'Junto', which reinforces

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<sup>661</sup> Riley, *Union*, pp. 166-168; Hayton, 'Country Interest and the Party System', pp. 51-52.

<sup>662</sup> Holmes, *British Politics*, pp. 84-85. A reappraisal on p. xxxiv affords the Junto and their 'allies' a 'dominant' role in 'carrying through' the Union.

<sup>663</sup> Holmes, *British Politics*, p. xxxiv-xxxv and pp. 110-111. Speck, *Birth of Britain*, p. 81 and fn. 46.

<sup>664</sup> Holmes, *British Politics*, pp. 84-85 and p. 110.

<sup>665</sup> Holmes, *Great Power*, pp. 312-313.

the notions of Whig coherence and agency. Secondly, both rely on dismissing the 1702-1703 union initiative, so that the origins of the Union lie in the failure of the 1704 succession initiative. The difficulties with this view are considered in Chapter 7. Thirdly, both compress the period between November 1704 and April 1706, so that events which were contingent on later developments can be referred back to the 'state of the nation' debates, thereby enabling these debates to be presented as decisive. For example, the 'bargain' which Riley argues was the price of Junto support in November 1704 includes the replacement of Wright by Cowper;<sup>666</sup> yet Cowper was not appointed until October 1705, and as a consequence of the 1705 elections and political manoeuvring over the choice of Speaker.<sup>667</sup> Further, the Scottish ministerial changes which Riley attributes to this bargain did not take place until May 1705 and were unconnected with it.<sup>668</sup> Similarly, Holmes makes the events of 1706 flow ineluctably from those of November-December 1704. They were in fact a result of later developments in Scotland over which the Junto had no control, notably the Scottish parliament's refusal to settle the succession (in July 1705), its passing an Act empowering the Queen to appoint union commissioners (in September), and its making negotiation conditional on the withdrawal of the threat to treat Scots as aliens (also September). It was not until this point, nearly one year after the attempt to censure Godolphin, that the Junto embraced union. Holmes is, however, right to insist that this was on the principled grounds that union was the only practical way of securing the Protestant Succession in Scotland,<sup>669</sup> as Somers explained to Sophia after the passage of the Regency Act.<sup>670</sup>

It is also striking that buried in both narratives is the recognition that the Court group had a union policy *before* the events of winter 1704-1705. For Riley, the Court group is motivated by parliamentary advantage and administrative efficiency<sup>671</sup> but frustrated by the Junto until union can

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<sup>666</sup> Riley, *Union*, p. 121.

<sup>667</sup> Speck, *Birth of Britain*, pp. 89-90.

<sup>668</sup> Below, pp. 160-162.

<sup>669</sup> Harris, *General in Winter*, p. 169

<sup>670</sup> BL, Add Ms 34521, f. 43, Somers to Sophia, April 1706.

<sup>671</sup> Riley, *Union*, pp. 23-26 and p. 163.

be harnessed to their purpose. For Holmes, Godolphin and Marlborough advocate union to resolve the 'deplorable state of Anglo-Scottish relations', but are ineffective or unenthusiastic, because they were preoccupied with the war and had not prioritized it, or because there was no English support for it.<sup>672</sup> Neither narrative qualifies its assessment of Whig agency despite acknowledging that union was *already* Court group policy.

### A Whig alliance?

In evaluating the consensus over Whig agency, it is also instructive to consider the evolution of the Whigs' relationship with the Court group and its correlation with the evolution of the Union.

There is no doubt that without Whig support Godolphin would have faced censure over the Act of Security. Furthermore, the strategy of legislating to deal with its implications for England was clearly agreed between Godolphin and the Junto between 29 November and 6 December 1704. However, this does not mean that control over Scottish measures had been surrendered to the Junto. The Junto's assistance was provided in the context of a shift in Court group strategy for managing the English parliament which had already begun. The Court group was considering the elimination of the remaining High Tory ministers well before the departure of Seymour, Jersey and Nottingham in April 1704,<sup>673</sup> and so had already initiated steps to build Whig support.<sup>674</sup> As early as April 1704 it planned to replace Buckingham with Newcastle as Lord Privy Seal, Nottingham with Harley as Secretary of State,<sup>675</sup> and Wright as Lord Keeper.<sup>676</sup> Signs of favour were offered to the Whigs. For example, the Whig poet Addison was commissioned to commemorate Blenheim in verse, while renewed Tory attacks on Halifax's conduct as Auditor of the Exchequer were blocked, and Halifax was given the privilege of carrying the sword of state before the Queen on her way to chapel at Windsor.<sup>677</sup>

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<sup>672</sup> Holmes, *British Politics*, pp. 84-5; *Great Power*, pp. 310-312.

<sup>673</sup> Rochester resigned in February 1703 rather than return to Ireland as Lord Lieutenant.

<sup>674</sup> *MGC*, Marlborough to Godolphin, 31 May 1703, p. 195; Marlborough to Lady Marlborough, 3 June 1703, pp. 197-198 and 10 June 1703, pp. 202-203.

<sup>675</sup> *MGC*, Godolphin to Lady Marlborough, 26 April 1704, p. 288 and 27 April 1704, p. 290.

<sup>676</sup> *MGC*, Marlborough to Godolphin, 2 July 1704, p. 334.

<sup>677</sup> *Luttrell*, v, July 1704, p. 444; Harris, *General in Winter*, pp. 146-147.

It also emerges from the Duumvirs' personal correspondence<sup>678</sup> and Carstares' correspondence with Seafield (in London with Roxburgh and Johnstone to discuss the 'scheme' for the next session of the Scottish parliament with the Court group)<sup>679</sup> that trouble was expected. Indeed, it was widely anticipated as early as August 1704 that the Whigs would challenge the handling of Scottish affairs and that the Tories would revive the occasional conformity issue.<sup>680</sup> The Court group therefore had time to prepare its defences. This involved dividing the Tories<sup>681</sup> and leveraging the Queen's authority,<sup>682</sup> while counting on Whig opposition to an Occasional Conformity Bill and anything that might disrupt the conduct of the war and waste the fruits of the victory at Blenheim. From a Whig perspective, defeat for the Court group might result in a High Tory ministry, and until the unambiguous Whig election victory in 1708, the possibility of Rochester and Nottingham returning to office constrained their leverage. Their support in 1704 was not, therefore, so entirely disinterested as Holmes and Speck argue,<sup>683</sup> nor was the Court group quite so vulnerable to a combined Whig and Tory attack as Riley supposes.<sup>684</sup> Accordingly, Harley's and Godolphin's canvassing against the Tack concentrated on Tories, not Whigs.<sup>685</sup>

It is significant, too, that the Court group was able to deal *simultaneously* with the threatened Tack and censure over Scotland. Haversham's speech in the Lords launching the Tory offensive took place on 23 November 1704 *before* the Commons vote on the Tack, but consideration of Scottish affairs was easily diverted until 29 November, the day *after* the Tack was defeated in the Commons.<sup>686</sup> It

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<sup>678</sup> *MGC*, Marlborough to Lady Marlborough, 9 June 1704, p. 321; Godolphin to Lady Marlborough, 14 June 1704, p. 323 and fn. 1; Marlborough to Godolphin, 2 July 1704, pp. 334.

<sup>679</sup> *CSP*, Seafield to Carstares, 21 November 1704, p. 732.

<sup>680</sup> *Vernon*, iii, 13 October 1704, p. 269.

<sup>681</sup> For example, it seems the Court group tried to 'take off' Bromley, who had brought in the previous Occasional Bills, with a Household place: Snyder, 'Defeat of the Tack', p. 178 fn. 1.

<sup>682</sup> She routinely attended the Lords' debates on Scotland from 29 November and the debate on the second reading of the Occasional Bill on 15 December: *Nicolson*, 15 December, p. 253.

<sup>683</sup> Holmes, *British Politics*, p. 110; Speck, *Birth of Britain*, p. 78, and p. 81.

<sup>684</sup> A point made by Godolphin to Harley 12 months earlier: *HMC Portland*, iv, Godolphin to Harley, 26 September 1703, p. 68.

<sup>685</sup> Holmes, *British Politics*, p. 110.

<sup>686</sup> Godolphin successfully urged that Scottish affairs should not delay supply. Haversham's Admiralty mismanagement complaints were deflected into a committee: *Nicolson*, 23 November, p. 235.

strains credibility to suppose that the Court group was sufficiently well prepared in the Commons but woefully vulnerable in the Lords. Indeed, some days later, on 12 December, the same combination of Whigs and 'non-Tackers' defeated a parallel attempt in the Commons to censure Godolphin over Scottish affairs.<sup>687</sup> It therefore appears that the Court group had constructed a working alliance of Whigs and non-Tackers in both Houses to defeat both threats. On this basis, Godolphin's conference with the Junto on the floor of the Lords may have been an orchestrated demonstration of strength rather than a humiliating *pis aller*.<sup>688</sup> Certainly, other contemporary accounts of that and ensuing debates do not suggest that Godolphin was in serious difficulty, and while Roxburgh and Johnstone are both clear that the week's pause in the debate was to allow the Whigs and Godolphin to confer, they do not suggest that it reflected weakness.<sup>689</sup>

Further, the subsequent history of appointment to English office does not support the view that the events of November-December 1704 were transformational in the Court group's relationship with the Whigs. Neither were in a position to commit themselves pending the results of the general election in May-June 1705. Meanwhile, the Court group hoped to rely on the combination of 'no-Tackers and Whigs' to carry its business.<sup>690</sup> Accordingly, other than the long-anticipated replacement of Buckingham by Newcastle as Lord Privy Seal in March 1705, *no* Whig appointments to high office followed the Alien Act's passage.<sup>691</sup>

It was *Tory cohesion* and the return of many Tackers in the 1705 election which convinced the Court group that further concessions were necessary to secure Whig support in the new parliament.<sup>692</sup>

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<sup>687</sup> *Jerviswood*, Johnstone to Baillie, 12 December 1704, p. 23; *Nicolson*, 12 December, pp. 251-252.

<sup>688</sup> Dartmouth disliked Godolphin and composed his note long after the event: Speck, *Birth of Britain*, p. 81, fn. 46. Possibly, Godolphin spoke indistinctly because he was ill: Snyder, 'Defeat of the Tack', pp. 181-84.

<sup>689</sup> Notably *Jerviswood*, Roxburgh to Baillie, 30 November 1704, pp. 12-13 and Johnstone to Baillie, 2 December 1704, pp. 14-15; *Vernon*, iii, 1 December 1704, pp. 275-278; and *Nicolson*, 23 November pp. 233-235, and 29 November, pp. 239-240.

<sup>690</sup> Snyder, 'Defeat of the Tack', p. 185, citing Longleat, 'Portland Miscellaneous Volume', ff. 132-133.

<sup>691</sup> Some Whigs were appointed to non-policy-making places: Dean Wake was made Bishop of Lincoln; Sunderland was sent as ambassador to Vienna; and Peterborough was given command of the expedition to the Mediterranean.

<sup>692</sup> *MGC*, Marlborough to Godolphin, 25 June 1705, pp. 452-453.



Significantly, these were made *after* the Scottish parliament had passed the Act in September empowering the Queen to appoint union commissioners. When the new English parliament met in October, Smith, a Whig, was selected as the Court group candidate for Speaker and Wright, long earmarked for dismissal, was replaced by another Whig, Cowper. These were Court group initiatives: the Whigs supported the Court group, not vice versa;<sup>693</sup> and Godolphin tried to avoid alienating those Tories who voted for Bromley (a Tacker) as Speaker.<sup>694</sup> Thereafter, it was made clear that demonstrations of commitment to the Queen's business in the ensuing session were required before appointment to high office could be considered.<sup>695</sup> This was the occasion for Harley's insistence that parties and persons that came into the Queen's service might be rewarded, but the Queen would not bend to parties and persons.<sup>696</sup>

Further Whig appointments *at the end of* the 1705-1706 session reflected the application of this principle. They were a *reward for*, not a *condition of*, Whig support for union. These changes included the selection in April 1706 of all five Junto Lords as English union commissioners, Derby's replacement of Gower as Chancellor of the Duchy of Lancaster, a cull of Tory placemen,<sup>697</sup> and an understanding over ecclesiastical appointments.<sup>698</sup> They were a direct consequence of High Tory failure to support the Queen's business and Whig support for it. In the Lords, the Tories had sought to embarrass the Court group by bringing in motions to invite Sophia to England (the 'Hanover Motion') and to assert that the Church was in danger. The Whigs, by contrast, had supported Court group business, for example by resisting the 'Church in Danger' motion, and resolving the difficulties presented by the Hanover Motion by sponsoring the Regency Act.<sup>699</sup> In these circumstances, it was

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<sup>693</sup> Speck, 'Choice of Speaker', p. 27, fn. 2.

<sup>694</sup> *HMC Bath*, i, Godolphin to Harley, 25 October, 1705, p. 79.

<sup>695</sup> Harris, *General in Winter*, pp. 167-168, citing Kansas University Library, MS P475.1, Halifax to Godolphin, 9 August 1705.

<sup>696</sup> *HMC Bath*, i, Harley to Godolphin 4 September 1705, pp. 74-75.

<sup>697</sup> Only five remained by 1707: Speck, 'Choice of Speaker', p. 30.

<sup>698</sup> Bennet, 'Bishoprics Crisis', p. 731.

<sup>699</sup> 'Act for the Security of Queen's Person and Protestant Succession'.

clear to Godolphin that, Harleyites excepted, the Tories could not be relied on for parliamentary support and that the Whigs deserved rewarding.<sup>700</sup>

Harley was not alone in entertaining reservations about making Whigs and Harleyite Tories work together. As early as November 1705, Halifax told Cowper it was like mixing 'oyl with vinegar', while Archbishop Tenison warned that Godolphin was exploiting the Whigs for his own ends.<sup>701</sup> Certainly, the Junto were unable to secure any senior office until *after* the conclusion of the Union Treaty in July 1706 when in December 1706 Sunderland replaced Hedges as Secretary of State, despite the Queen's (and Harley's) determined resistance. Indeed, the Court group explored a 'moderate scheme' in the winter of 1707-1708 which would have excluded the Junto from office.<sup>702</sup> Even after Harley's fall, which owed nothing to the Junto,<sup>703</sup> the Whig election victory of 1708, and the emergence of an uneasy alliance between the Junto and the Duumvirs, the last Tory ministers, Ormonde and Pembroke, were only removed in April 1708 and November 1709 respectively. Somers and Wharton did not achieve high office until the end of 1708 and Orford had to wait until the end of 1709, while Halifax never achieved it. The Junto continued to complain that they were not adequately rewarded until their fall in the 'Ministerial Revolution' of summer 1710.<sup>704</sup>

It is clear from this outline that the evolution of the Union did not correlate with Whig, still less Junto, appointments to office. It is therefore difficult to sustain the argument that Scottish measures after November 1704 were driven by a disciplined Whig interest. Rather, the converse was true: Whigs were rewarded *after* they had demonstrated their commitment to delivering Court group objectives. This is confirmed by the following review of the specific instances where Union

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<sup>700</sup> *HMC Portland*, iv, Godolphin to Harley, 22 March 1706, p. 291.

<sup>701</sup> *Cowper*, 6 November, pp. 11-12; 2 November 1705, pp. 9-10.

<sup>702</sup> Harris, *General in Winter*, pp. 226-228; Gregg, *Queen Anne*, pp. 255-257; Snyder, 'Godolphin and Harley', pp. 265-266; Holmes and Speck, 'Fall of Harley', pp. 681-684.

<sup>703</sup> NUL, PwA, 1188, Somers to Portland, 14 February 1708, and PwA 945, Halifax to Portland, 17 February, 170[8].

<sup>704</sup> W.L. Sachse, *Lord Somers* (Manchester, 1975), pp. 263-267.

historiography has argued that Scottish measures originated in Whig-led English parliamentary pressure.

### Whig influence in the evolution of the Union

These instances comprise the 1704 succession initiative; the passage of the English Alien Act in 1704-1705; the changes in the Scottish ministry and the renewed succession initiative in 1705; the repeal of the Alien Act's penal clauses in 1705; and the appointment of English union commissioners in 1706.

#### The Succession Initiative

Riley represents the attempt to settle the Scottish succession in 1704 as a 'capitulation' to the Junto's 'hue and cry' over the 'Scotch Plot',<sup>705</sup> exemplified in the Lords address of 29 March 1704. Essentially, he follows Lockhart's and Fletcher's claims that the succession initiative was yet another manifestation of 'English influence'.<sup>706</sup> Although vehemently denied by Johnstone, who had the task of managing the initiative in parliament, this *canard* found political traction in Scotland and contributed significantly to the initiative's failure.

In fact, without any prompting from parliament or the Junto, the Court group began to consider the settlement of the Scottish succession in the summer of 1703, but was advised by Seafield not to attempt it.<sup>707</sup> However, when the Scottish parliament terminated the union commission in September, settlement of the succession became imperative.<sup>708</sup> The succession (and the method for accomplishing it) seem to have been discussed in meetings at Court with the chief Scottish ministers over the winter of 1703-1704.<sup>709</sup> Accordingly, the Queen told the Scottish Country delegation on 8

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<sup>705</sup> Riley, *Union*, p. 117.

<sup>706</sup> *Crossrigg*, 25 July 1704, p. 147; Lockhart, pp. 106-107.

<sup>707</sup> BL, Add Ms 34180, f. 7, Seafield to Godolphin, 23 June 1703.

<sup>708</sup> Curtis Brown, *Letters*, pp. 227-228, 11 June 1704, Queen to Lady Marlborough, misdated to 1707 *per* Gregg, *Queen Anne*, p. 185, fn.14.

<sup>709</sup> BL, Add Ms 34180, f. 31, Seafield to Godolphin 7 April 1704; *Crossrigg*, p. 147.

March 1704 that she intended to settle the succession.<sup>710</sup> She was therefore not dissimulating when she replied to the Lords address on 31 March that she had ‘some Time since declared My Intentions of endeavouring the Settlement of the Protestant Succession in *Scotland*, to My Servants of that Kingdom, as the most effectual Means for securing their Quiet and our own...’<sup>711</sup> Indeed, Riley acknowledges that this was in fact the case.<sup>712</sup> The succession initiative was therefore a reaction to Scottish political exigencies, and not to English, still less Junto, parliamentary pressure.

### **The Alien Act**

There is no doubt that the purpose of adjourning the Lords debate over Scotland on 29 November was to give Godolphin the opportunity to confer with the Junto,<sup>713</sup> so that when the debate resumed they were agreed on a legislative response to the four Acts.<sup>714</sup> It does not, however, follow that the content of this legislation, outlined on 11 December by Wharton and Somers, was imposed by the Junto. The Alien Act did not in fact originate with the Junto proposals in the Lords, and its provisions were entirely consistent with Court group objectives, as discussed below.

Wharton proposed an incorporating union while Somers proposed economic sanctions.<sup>715</sup> This resulted in two bills, one giving the Queen the power to appoint union commissioners, provided the Scots did the same, the other imposing sanctions if either the Scots had not agreed to the Hanoverian succession or appointed union commissioners within a stipulated timeframe.<sup>716</sup> These were combined into a single bill ( ‘an Act relating to an Union and a good correspondence with the Kingdom of Scotland’) which was sent to the Commons for approval on 20 December.<sup>717</sup>

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<sup>710</sup> *Marchmont*, iii, Baillie to Lady Grisell, 9 March 1704, p. 263.

<sup>711</sup> *LJ*, xvii, p. 557.

<sup>712</sup> Riley, *Union*, p. 73.

<sup>713</sup> *Jerviswood*, Roxburgh to Baillie, 30 November 1704; Johnstone to Baillie, 2 December 1704, p. 12 and p. 15.

<sup>714</sup> *Jerviswood*, Roxburgh to Baillie, 7 December 1704, pp. 17-19.

<sup>715</sup> *Nicolson*, 11 December, pp. 249-250.

<sup>716</sup> *Nicolson*, 18 December, p. 256.

<sup>717</sup> *LJ*, xvii, pp. 602-606. Separate bills prohibited Scottish linen imports and Scottish trade with France: *Jerviswood*, Johnstone to Baillie, 12 December 1704, p. 22.

It was not this bill, however, which became the Alien Act. After Whigs and no-Tackers defeated the attempt to censure Godolphin over Scotland in the Commons on 12 December,<sup>718</sup> a *parallel* legislative process to deal with the perceived Scottish threat commenced. When the Commons received the Lords' bill, they delayed its second reading until their own bill was ready, which as Johnstone foresaw, meant that the Lords bills would be lost.<sup>719</sup> The Commons Bill only passed on 1 February 1705, after late amendments prohibiting Scottish cattle and coal imports and excluding changes to liturgy and church government from the commissioners' remit. It was promptly approved by the Lords without amendment, but only received the royal assent on 14 March, together with Acts prohibiting Scottish linen imports and trade with France.<sup>720</sup> The Alien Act was not, therefore, the crisp outcome of a Junto-led initiative in the Lords.

It differed in one important respect from the Lords Bill. The Scots could only avoid its penal provisions by settling the Protestant Succession by Christmas 1705: appointing commissioners to negotiate a union would not do so. Riley argues that this was engineered by the Junto and evidences their determination that the Scottish succession should be settled before the Court group's union policy could succeed.<sup>721</sup> However, it seems more likely to have reflected general concern that union negotiations might fail, and the importance of precluding further delay in settling the Scottish succession, for example by agreeing to negotiate a treaty and then 'clogging' it with terms which the English parliament could not accept. As Haversham said regarding the Lords Bill, 'settling of the Succession this last summer was hindered by the putting that matter upon the foot of a treaty; and now it was to be hindered by the same method.'<sup>722</sup> Moreover, the deferral of the Lords Bill's second reading seems to have been a Tory rather than Whig initiative, based on the identity of the tellers

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<sup>718</sup> The voting was 209 v 151 against censure: *Jerviswood*, Johnstone to Baillie, 12 December p. 23. Comparison with the earlier Tack vote (235 against and 134 for) suggests the resilience of the Whig and 'no-Tacker' alliance.

<sup>719</sup> *Jerviswood*, Johnstone to Baillie, 21 December 1704, p. 27; Burnet, *History*, v, p. 184 says the Commons regarded the Lords' bill as a money bill, on account of its imposition of financial penalties.

<sup>720</sup> *CJ*, xiv, p. 507; *LJ*, xvii, p. 645 and p. 717.

<sup>721</sup> Riley, *Union*, p. 122.

<sup>722</sup> *Jerviswood*, Johnstone to Baillie, 21 December 1704, p. 26.

and the fact that the Committee which reported on the Commons Bill was chaired by Conyers, a reliable Tory placeman who had not supported the Tack.<sup>723</sup> Indeed, according to Burnet, some Tory supporters of the Commons bill hoped the Lords would insist on their bill, so that the measure would be lost in an inter-cameral conflict.<sup>724</sup>

The Court group's preference for union during the Alien Act's evolution was understood by contemporaries close to the political process. Roxburgh, in London to discuss Scottish measures with them, told Baillie that '[union] is what seems most desired; and without doubt [the Lords] and [Commons] will agree in some act to that end.'<sup>725</sup> By contrast, notwithstanding expressions in support of union in the Lords, the Junto's subsequent conduct demonstrated that their clear priority remained the settlement of the Scottish succession.<sup>726</sup> It therefore seems that in endorsing union legislation, the Junto were showing that they could carry the Court group's union objectives, rather than themselves initiating the policy of union.

As for the Act's coercive provisions, the Junto certainly exhibited a pronounced readiness to deal robustly with perceived Scottish separatism. Halifax was responsible for the suggestion that the Scots be threatened with treatment as aliens, and the Junto ally, Mohun, argued for tighter border restrictions on wool, while Scottish exports of black cattle and linen were widely regarded as easy targets.<sup>727</sup> Roxburgh therefore had no hesitation in identifying the Whigs with the coercive measures, telling Baillie after the 6 December debate that 'the design of [the Whigs], in this matter, is to force us in to [succession].'<sup>728</sup> However, the Court group and the Whigs were aligned over the need for coercion which, based on contemporary accounts reflected general English parliamentary

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<sup>723</sup> *CJ*, xiv, p. 469. Freeman and Lawson, tellers for deferring the Lords bills' second reading, were both Tories; Pultney and Stanhope, tellers for prioritizing the Lords' Bills were Whigs: [History of Parliament Online/org/research/ members /1690-1715](https://www.historyofparliamentonline.org/research/members/1690-1715). Accessed 11 November 2021.

<sup>724</sup> Burnet, *History*, v, p. 184.

<sup>725</sup> *Jerviswood*, Roxburgh to Baillie, 4 January 1705, p. 31.

<sup>726</sup> Below, pp. 162-164.

<sup>727</sup> *Nicolson*, 6 and 11 December, pp. 244-250; *Jerviswood*, Johnstone to Baillie and Roxburgh to Baillie, 7 December 1705, pp. 16-18.

<sup>728</sup> *Jerviswood*, Roxburgh to Baillie, 7 December 1704, p. 18.

opinion,<sup>729</sup> albeit subject to some Tory reservations.<sup>730</sup> There was genuine English alarm over the ‘four Acts’, reflected in the Lords’ resolutions of 6 December regarding the ‘Dangerous Consequences’ as to ‘the Trade and as to the present and future Peace of this Kingdom’.<sup>731</sup> The Act of Security, in stipulating conditions for the continuation of the Regal Union and providing for the arming and training of Scottish militias, was seen as an ‘Act of Exclusion’ which, taken with the Act anent Peace and War, presaged a break-up of the Regal Union that would expose England to a French invasion through Scotland.<sup>732</sup> Moreover, the Wine Act allowed the import into Scotland of French wines, notwithstanding the war with France and the prohibition in England of such trade, while in allowing the export of Scottish wool, the Wool Act appeared to be an encouragement for smuggling English wool into Scotland to the detriment of English textile manufacturers. These concerns were exacerbated by Anglophobic Scottish polemic, the first reports of the Scots’ treatment of the *Worcester’s* crew,<sup>733</sup> and the drilling of Scottish militias. Consequently, Scots in London reported that the English parliament was ‘entirely as one man for the union’,<sup>734</sup> and was prepared to impose it: ‘the spirit here runs upon [conquest] or [union]’.<sup>735</sup>

Godolphin’s immediate English priority was to demonstrate to parliament and the Junto the Court group’s sincerity over securing the Protestant Succession in Scotland after its failure in 1704 and rumours of its complicity in that failure. He was also happy to show Scottish politicians the consequences of provoking English hostility and to suggest that he stood between them and those in England who talked of conquest.<sup>736</sup> He also found it especially helpful to be able to blame the Whigs for any ‘hard laws’, or the dismissal of Scottish ministers: ‘they have done it-they will have it so’, he

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<sup>729</sup> *Nicolson*, 6-20 December, pp. 244-246, 11 December p. 250; *Vernon*, iii, pp. 275-282; *Jerviswood*, Johnstone to Baillie 12 and 21 December 1704, p. 22 and p. 26.

<sup>730</sup> *Jerviswood*, Johnstone to Baillie, 21 December 1705, p. 26; *Nicolson*, 20 December, pp. 256-257.

<sup>731</sup> *LJ*, xvii, p. 592.

<sup>732</sup> *Lord Haversham’s Speech in the House of Peers, 23 November 1704* (London, 1704) pp. 3-4; and *Nicolson*, 23 December, pp. 233-235.

<sup>733</sup> *Jerviswood*, Roxburgh to Baillie, 26 December 1704, p. 28.

<sup>734</sup> *CSP*, Seafeld to Carstares, 21 November 1704, p. 733.

<sup>735</sup> *Jerviswood*, Johnstone to Baillie 12 December 1704, pp. 22-23.

<sup>736</sup> For example, *Jerviswood*, Johnstone to Baillie, 9 September 1705, p. 122 where the Whigs and Schutz, the Hanoverian ambassador, are ‘violently and avowedly’ for war if Scotland rejected a Treaty.

told Johnstone.<sup>737</sup> Indeed, appearing to be less in control than he really was, for example disowning responsibility for Cowper's appointment, was a recurring tactic employed by Godolphin.<sup>738</sup>

Accordingly, he 'would not interpose' and was happy to allow the Whigs to make the running with penal legislation.<sup>739</sup>

### **Scottish ministerial appointments**

*Prima facie*, events after November 1704 support the argument that the Court group had conceded control over Scottish ministerial appointments in return for Whig support. The Junto regarded the Scottish 'Revolutioners', (the core of William's Scottish 'Court Party', or 'Old Party') as their natural allies. They saw Queensberry as the leader of this party and were therefore perturbed by his dismissal.<sup>740</sup> Encouraged by Queensberry, they attributed the failure of the 1704 succession initiative to Tweeddale, Queensberry's replacement as High Commissioner, and his 'New Party' colleagues, and wanted them dismissed. In February 1705, Tweeddale was replaced by Argyll, a prominent Revolutioner who, following his arrival in Edinburgh at the end of April, dismissed the 'New Party' ministry and replaced it with ministers drawn almost entirely from the Old Party.

However, Argyll's appointment was unconnected with any understanding between the Court group and the Junto. Indeed, it took the Junto by surprise, as Riley concedes.<sup>741</sup> It was based entirely on Scottish political calculations following deliberations in January-February 1705 between the Court group, Seafield, Roxburgh and Johnstone.<sup>742</sup> In these discussions, Roxburgh identified Argyll as a candidate who might attract support from both the Old Party and the New Party.<sup>743</sup> Consistent with the strategy developed in April 1704, the Court group's plans at this stage were to continue to work

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<sup>737</sup> *Jerviswood*, Johnstone to Baillie, 3 May 1705, p. 84.

<sup>738</sup> Burnet, *History*, v, p. 225, Dartmouth's note.

<sup>739</sup> *Jerviswood*, Johnstone to Baillie, 21 December 1704, p. 26.

<sup>740</sup> NLS, MS 7021, ff. 85 and 87, Alex Bruce to Tweeddale, 14 December and 19 December 1703.

<sup>741</sup> Riley, *Union*, p. 129.

<sup>742</sup> NLS, MS 3420, ff. 21-22, Godolphin to Tweeddale, 31 January 1705.

<sup>743</sup> *Jerviswood*, Roxburgh to Baillie, 4 January 1705, p. 32; Johnstone to Baillie 9 January 1705, p. 34; Johnstone to Baillie, 6 March 1705, p. 54.



to combine the 'Old' and 'New Parties'.<sup>744</sup> Accordingly, on its own initiative, the Court group brought into the Scottish ministry two more Old Party supporters of the Protestant Succession, Annandale and Cockburn of Ormiston.<sup>745</sup>

The dismissal of the New Party ministers was similarly a result of Scottish, not English, political manoeuvres. When Argyll arrived in London in February, he certainly consulted with the Junto, who shared his determination to replace New Party ministers.<sup>746</sup> However, although they succeeded in replacing Johnstone as Clerk Register with Queensberry's ally Philiphaugh, they signally failed to secure any more dismissals, and Argyll was sent to Scotland with instructions to work with the New Party.<sup>747</sup> Argyll ignored these instructions, consulted exclusively with the Old Party, decided to replace the New Party ministers with Old Party men (including Queensberry) and threatened to resign if he were overruled.<sup>748</sup> The Court group's room for manoeuvre by this stage was very limited. As Seafeld explained to Godolphin, it was simply not feasible to appoint a replacement Commissioner.<sup>749</sup> Furthermore, it made no sense to antagonize the Whigs, since the likely outcome of the English elections confirmed the importance of their support. As Seafeld advised, if Argyll resigned 'will it not be said in England that if his advice had been foloued, he would have succeeded?'<sup>750</sup> And again, 'to necessitat the Commissioner to lay down would give still to that pairtie in England [the Whigs] the handle to bleam the Queen's measures.'<sup>751</sup> The Old Party was

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<sup>744</sup> NRS, GD 248/559/36A, f. 18 Godolphin to Seafeld, 25 July 1704; *CSP*, Seafeld to Carstares, 25 January 1705, p. 733; *LRS*, Seafeld to Godolphin 26 April 1705 p. 33; BL, Add Ms 34180, f. 76, Seafeld to Godolphin, 21 August 1704.

<sup>745</sup> *Jerviswood*, Roxburgh to Baillie, 4 and 9 January 1705, pp. 30-33.

<sup>746</sup> *Jerviswood*, Johnstone to Baillie and Roxburgh to Baillie, 6 March 1705, pp. 54-56; Johnstone to Baillie 5 April 1705, p. 69.

<sup>747</sup> *Jerviswood*, Johnstone to Baillie, 22 March 1705, p. 61.

<sup>748</sup> *ISL*, Argyll to Godolphin 2 May and 13 May 1705, pp. 9-12 and pp. 15-17; Argyll to Anne, 13 May 1705, pp. 13-15. *LRS*, Seafeld to Godolphin, 12 May 1705, p. 38.

<sup>749</sup> *LRS*, Seafeld to Godolphin 12 May and 13 May 1705, p. 39 and p. 41.

<sup>750</sup> *LRS*, Seafeld to Godolphin 17 May 1705, p. 43.

<sup>751</sup> *LRS*, Seafeld to Godolphin 29 May 1705, p. 47.

confident 'that they have support by a pairtie in England'<sup>752</sup> and the New Party ministers were duly dismissed.

Their dismissal was not, therefore a condition of Whig support in November-December 1704. Whig influence was limited to encouraging Argyll to ignore the Court group's instructions. It was certainly insufficient to secure the removal of Seafield, who remained under Godolphin's protection.<sup>753</sup> If anything, the Old Party exploited the Whigs, concealing their divisions over the succession, which only became apparent in discussions over Argyll's Instructions for the impending 1705 parliamentary session.<sup>754</sup> Baillie told Roxburgh that he believed these had been deliberately delayed so that the New Party could be dismissed before the divisions within the Old Party and its inability to carry the Protestant Succession became apparent to the Whigs.<sup>755</sup>

### **Scottish Policy after the Alien Act**

Nor did the Whigs force a succession policy on the Court group in return for their support in November-December 1704. Whatever Godolphin's long-term objectives, the 'scheme' for the 1705 session of the Scottish parliament was still under consideration between Seafield, Roxburgh, Johnstone and the Court group in January-February 1705.<sup>756</sup> These discussions were, however, eclipsed by Argyll's determination to replace the New Party ministers, and it was not until after their dismissal that attention returned to the consideration of Scottish measures.

Having assured the Junto that he could deliver the Protestant Succession in Scotland, Argyll found that his Old Party ministry could not do so.<sup>757</sup> Godolphin cannot have been surprised, since Seafield had consistently advised that the Old Party was divided between those who favoured a 'treaty' (that is, a union which offered trading concessions), and those who favoured settling the Protestant

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<sup>752</sup> *LRS*, Seafield to Godolphin 10 May 1705, p. 37.

<sup>753</sup> *NRS*, GD 248/572/7 ff. 11-13, Godolphin to Seafield, 5 May, 18 May and 2 June 1705.

<sup>754</sup> *LRS*, Seafield to Godolphin, 8 and 9 June 1705, pp. 49-50.

<sup>755</sup> *Jerviswood*, Baillie to Roxburgh, 5 June 1705, p. 103.

<sup>756</sup> *Jerviswood*, Roxburgh to Baillie, 4 January 1705, p. 31 and 5 February 1705, pp. 43-45.

<sup>757</sup> *LRS*, Ormiston to Godolphin, 31 May 1705, pp. 164-166; Riley, *Union*, p. 138.

Succession in return for constitutional concessions, and that it could not carry either without New Party support.<sup>758</sup> It is clear that at this stage the Whigs wanted the Commissioner's Instructions to prioritize settlement of the succession, notwithstanding their earlier support for the Alien Act. As Seafield reported: 'I believe that [the Whigs] are for pressing the succession bot as I wrot formerlie my Lord Stair and [Philiphaugh] are verie sensible that it will devyde Q'beries friends and that it will not succeed'.<sup>759</sup> Argyll therefore drafted two sets of Instructions, one recommending the succession and one the treaty, and asked the Queen to choose, having made it clear that he believed only a treaty would carry.<sup>760</sup>

The Court group's objective continued to be union: according to Johnstone, '[Godolphin's] discourse, and all his friends, have all along declared him to be, in his judgement, for [a Union] and not of [limitations]',<sup>761</sup> Nevertheless, Argyll was instructed to prioritize the succession 'before all other business'.<sup>762</sup> Ostensibly, therefore, Court group policy was *completely* aligned with Whig preferences although it knew that it would fail, as Roxburgh realized: '[succession], it's plain, is to be proposed in order to miscarry'.<sup>763</sup>

Godolphin's intention seems to have been to consolidate English, and especially Junto, support for union and its concomitant trading concessions by demonstrating conclusively that the failure to settle the Scottish succession was not attributable to the Court group's reluctance but to Scottish political realities, and further, that union was the only way to secure the Protestant Succession. This was grudgingly acknowledged by Halifax after the Scottish parliament again resolved not to settle the succession without a previous treaty on 17 July 1705:

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<sup>758</sup> BL, Add Ms 34180, f. 84, Seafield to Godolphin, 26 May 1705; *LRS*, Seafield to Godolphin 26 April 1705, p. 33.

<sup>759</sup> Ormiston, Annandale and the Lord Advocate supported the succession. Stair, Philiphaugh and Hew Dalrymple argued for a treaty: *LRS*, Seafield to Godolphin, 9 June 1705, p. 50.

<sup>760</sup> *LRS*, Seafield to Godolphin, 29 May and 8 June 1705, p. 46 and p. 49.

<sup>761</sup> *Jerviswood*, Johnstone to Baillie, 22 May 1705, p. 90.

<sup>762</sup> Curtis Brown, *Letters*, for Argyll's Instructions, 18 June 1705, pp. 161-162.

<sup>763</sup> *Jerviswood*, Roxburgh to Baillie, 8 June 1705, p. 108.

I am sorry the settlement of the succession could not be carried...the quarrel seems now directly between the two nations and it can no longer be pretended that the Queen was wanting in her endeavours to reconcile them, or her ministers to blame in the measures that were taken.<sup>764</sup>

On this basis, the Junto were prepared to support union, but as a means to the end of settling the Protestant Succession in Scotland, rather than an end in its own right. This was evident in 1713 when their support for the attempted repeal of the Union was conditional on the preservation of the Protestant Succession in Scotland.<sup>765</sup>

### **The repeal of the penal clauses**

Although the Scottish parliament empowered the Queen to appoint union commissioners, it required the repeal of the Alien Act clause which threatened to treat Scots as aliens before negotiations could begin.<sup>766</sup> Here was an ideal opportunity for either party to bring pressure on the Court group, but neither did so. Instead, both sought to facilitate the Queen's wishes, neither daring to endure the consequences of challenging her expressed will. After details of the Scottish parliament's proceedings had been provided to both Houses, the Tory Haversham moved the repeal of the 'alien' clause in the Lords on 23 November, only to be trumped by Somers' Whig motion to repeal the whole Act apart from the provisions for the appointment of commissioners. This was *unanimously* approved. This comprehensive repeal of the penal clauses reflected Godolphin's wish to demonstrate English good faith and encourage the Scots to negotiate,<sup>767</sup> and ensure that no blame should attach to England for a failure of the union initiative.<sup>768</sup> It was not controversial and received royal assent on 21 December. Furthermore, the Lords' approval of the Court group's Scottish measures was confirmed by a resolution echoing an earlier Commons address which

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<sup>764</sup> Harris, *General in Winter*, p. 169, citing Kansas UL, MS P475.1 Halifax to Godolphin, 9 August 1705.

<sup>765</sup> Holmes, *British Politics*, p. 113; Gregg, *Queen Anne*, p. 367.

<sup>766</sup> *APS*, xi, p. 238.

<sup>767</sup> *Cowper*, p. 18. *CSP*, Mar to Carstares, Loudon to Carstares, 4 December 1705 pp. 738-740. The English parliament was concerned not to appear to have submitted to Scottish pressure.

<sup>768</sup> *HMC Bath*, i, Godolphin to Harley, 8 December p. 80.

thanked the Queen for her efforts to secure the Scottish succession, preserve peace between the kingdoms and promote their union.<sup>769</sup> This comprehensive endorsement reflected the Court group's canvassing of Whig support, as Seafield explained to Carstares,<sup>770</sup> rather than any new bargain with the Junto.

### **The negotiation of the Union**

Riley argues that while the Junto supported the Court group in the Lords by opposing the Hanover Motion and developing the Regency Act, they encouraged the Commons to defer rejection of the Motion until the Regency Bill had passed, and to delay the Bill's passage by insisting on the 'Whimsical' place clause. This, he says, gave them sufficient leverage to secure their appointment as union commissioners, enabling them to control the negotiations and defend their interests.<sup>771</sup>

Godolphin was certainly concerned that the Whigs on principle would find it hard to resist the Hanover Motion. He therefore wrote to Newcastle to procure the mobilization of Whig support<sup>772</sup> and, after the Lords' rejection of the Motion on 15 November, canvassed the Junto to make their 'friends in the Commons...a little more passive'.<sup>773</sup> However, there was no suggestion that they refused to do so. Holmes' judgement was that Riley was taking the narrative of Junto trickery too far. In a detailed study, he attributed the Whimsical Clause to genuine Country concern over placemen in the Commons in the context of the Regency Bill's proposed repeal of the place provisions in the Act of Settlement.<sup>774</sup> Recent research confirms that the Junto were not responsible for the Whimsical Clause and in fact did their best to defeat it.<sup>775</sup>

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<sup>769</sup> *LJ*, xviii pp. 27-28; *Nicolson*, 23 November 1706, p.309; *CJ*, xv, p. 22.

<sup>770</sup> *CSP*, Seafield to Carstares, 24 November 1705, pp. 737-738.

<sup>771</sup> Riley, *Union*, pp. 166-168 and Hayton, 'The Country Interest and the Party System', pp. 51-52.

<sup>772</sup> *HMC Portland*, ii, 13 November 1705 p. 191.

<sup>773</sup> *HMC Portland*, iv, p. 154; dated to 1704 but from context, written between 13 and 19 November 1705.

<sup>774</sup> Holmes, *British Politics*, xl, fn. 121 and 'Attack on the Influence of the Crown', pp. 54-59.

<sup>775</sup> D. Hayton and C. Jones 'Peers and Placemen: Lord Keeper Cowper's Notes on the Debate on the Place Clause in the Regency Bill, 31 January 1706', *Parliamentary History*, 18 (1999), pp. 65-79.

There is no doubt, however, that the Whigs were crucial to the delivery of the Union, both in the negotiation of its detailed terms and in securing English parliamentary votes.<sup>776</sup> It is also clear that the Junto sought to maximize union's political benefits for them. For example, they hoped to be able to 'steer' Scottish representatives in the Union parliament to their advantage.<sup>777</sup> However, it is important not to exaggerate the extent to which they determined the shape of the Union. As Riley acknowledges,<sup>778</sup> its basic terms were, in the Queen's words, 'obvious'. Many details had already been worked out and the remaining issues for resolution identified in 1702-1703.<sup>779</sup> It had long been recognized that Scotland would retain its separate Church and legal system, while the principle of compensation for Darien had been accepted in 1704.<sup>780</sup> The main outstanding issues concerned Scottish parliamentary representation (including the treatment of the Scottish peerage); the protection of the existing ecclesiastical settlements; and the nature and extent of the transitional reliefs for Scotland to compensate for the English insistence on a common excise. The close relationship between the Junto and the Revolutioners who dominated the Scottish commissioners certainly facilitated the resolution of these issues, but the Junto's function was one of execution, not of initiation and direction.

## Conclusion

There are no grounds, therefore, to suppose that the Union was imposed on the Court group by the English parliament, or by the Whigs. Rather, both parliament and the Whigs fell in behind the Court group's union policy, although the Junto only grudgingly did so after the Scottish parliament rejected an Act of Settlement in 1705.

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<sup>776</sup> Holmes, *British Politics*, p. 85.

<sup>777</sup> *HMC Portland*, ii, 15 Harley to Newcastle, June 1706 p. 193; iv, Newcastle to Harley, 17 June 1706, p. 313.

<sup>778</sup> Riley, *Union*, p. 177.

<sup>779</sup> See below, pp. 219-221.

<sup>780</sup> *CSP*, Harley to Carstares, 20 July 1704, p. 728; BL, Add Ms 34180, f. 58, Seafield to Godolphin, 8 July 1704.

Indeed, as Holmes acknowledged, government by party was at best ‘only fleetingly realised’ during Anne’s reign.<sup>781</sup> Certainly, there was no single party government during 1702-1707 when the Union was negotiated and ratified. While the Court group in 1702-1707 needed both English and Scottish parliamentary support for its policies, and could become dangerously exposed without it, it substantially retained control over the formation and direction of policy.<sup>782</sup>

Securing parliamentary support did not necessarily require the appointment of party leaders to high office, nor did high office necessarily confer influence over policy. Accordingly, the Court group’s need for Whig support after 1704 did not mean that it had surrendered control over policy to them. Indeed, it is striking that not until 1709 were characteristically Whiggish measures passed.<sup>783</sup> The vital importance of the Queen’s confidence meant that policy could be developed outside formal decision-making processes. This explains why after 1708 the Junto sought to bring decision-making into the Cabinet, where they could dominate, and why Godolphin was confident that he could preserve the Queen’s independence despite concessions to the Junto, provided that the Duumvirs retained her confidence.<sup>784</sup>

Accordingly, the absence of single party government in 1702-1708 did not mean that government was weak, or ‘teetered on the edge of chaos’.<sup>785</sup> Consistent policy was by no means easy to achieve, but the Court group’s ability to realize its objectives in this period was remarkable. Indeed, in this period there was no discernible change in the direction of its policy, domestic or geopolitical, notwithstanding its rupture with the High Tories in 1704 and the carefully calibrated appointments to office to reward Whig support from 1705.

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<sup>781</sup> Holmes, *British Politics*, p. 1.

<sup>782</sup> J.P. Kenyon, ‘The Earl of Sunderland and the King’s Administration, 1693-95’, *EHR*, 71 (1956), p. 602. Clark, *Revolution and Rebellion*, pp. 89-90. Plumb, *Stability*, pp. 100-109.

<sup>783</sup> For example, the Foreign Protestants Naturalization Act, 7 Anne c. 5.

<sup>784</sup> *MGC*, Godolphin to Marlborough, 28 August 1708, p. 1085. See Harris, *General in Winter*, pp. 253-254, pp. 261-2 and p. 267 and fn. 168 for the Duumvirs’ circumvention of Junto pressure.

<sup>785</sup> As alleged by Plumb, *Stability*, p. 2 and p. 65.

Agency for the Union therefore lay with the Court group, not with the English parliament or the Whigs. It remains, however, to determine whether this choice was an expedient response to external pressure, or the result of deliberate policy. In short, why did the Court group decide to replace the framework of the Regal Union with an incorporating union? For the purpose of addressing this question, it is necessary to consider *when* this decision was made, and to address the third of the three linked questions posed in Chapter 1, concerning the Union timeline.<sup>786</sup> This is the subject of the next two chapters.

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<sup>786</sup> Above, p. 35.



## Chapter 6 The Origins of Union Policy

### Introduction

Before examining whether the Court group in 1702-1708 chose union as a matter of policy or because it was compelled to do so by external pressures, it is instructive to consider its fundamental objectives regarding Scotland. Union historiography, albeit conflating Court groups with 'England', has offered a wide variety. These include a long-standing ambition of conquest and assimilation, securing the Protestant Succession, gaining or preserving access to Scottish resources, serving English commercial interests, protecting English revenues, improving English security, and obtaining a parliamentary advantage.

This chapter begins by reaffirming the necessity of discarding bilateral interpretations of the Union and insisting on the difference between Court group and 'English' objectives, while acknowledging that they could coincide. After a discussion of core post-Revolution Court group Scottish objectives, it concludes that in both William's and Anne's reigns, these principally concerned the preservation of the British polity, the alignment of policy in the conduct of diplomacy, war, peace and trade, and the preservation of prerogative rights. Although all these were reflected in the terms of the Union, it argues that there was no intrinsic reason why they could not have been satisfied within the Regal Union framework. However, the geopolitical and domestic consequences of the Darien affair demonstrated that this framework was no longer fit for the purposes of great power geopolitics.

### Court groups' British perspective

In William's reign it was axiomatic for much English Tory and Country opinion that Court group and English objectives did *not* coincide and that English resources were being exploited for Dutch ends. Indeed, as Dutch *Stadhouder*, William's closest advisers were Dutch and even in peacetime he routinely spent half a year in the Dutch Republic. His priorities essentially concerned Dutch security

and the exploitation of the resources of the *whole* British monarchy to serve them. In his reply to the English House of Lords address over Darien in 1700, which pointedly reminded him that he depended on English taxes and hence English trading wealth, he reminded them that he was also King of Scotland and was concerned to address the consequences for Scotland of the colony's failure. Significantly, he urged union as the means of reconciling English and Scottish interests.<sup>787</sup>

Anne made a virtue of her Englishness, and political power in 1702-1708 was concentrated in a powerful Court group that was wholly English.<sup>788</sup> It was therefore easy for Scottish Country polemicists to represent its objectives as *English*.<sup>789</sup> Anne was, however, acutely aware that she was also Queen of Scotland. For instance, Secretary Sunderland rebuked Governor Parkes of the Leeward Islands for treating presbyterian Scots as expendable in a proposed attack on Martinique, reminding him that the Queen considered them 'good subjects and good Christians'.<sup>790</sup> Godolphin was also sensitive to criticism that the Queen was dominated by English advisers and suggested the revival of a Scottish council to attend the Queen in London, although on Seafield's advice this was not pursued.<sup>791</sup> Moreover, Court groups were sometimes prepared to take a British perspective at the expense of sectional English interests. For example, in the period between ratification of the Union and its effective date, English traders objected to the exploitation by Scottish and Dutch competitors of a customs duty loophole in the provisions of the Union (the 'drawbacks' issue). Although the English parliament sought a unilateral legislative remedy, the Court group took steps to frustrate it, in order not to provoke the Scots.<sup>792</sup> Similarly Cowper and Godolphin agreed that in settling any contentious issues arising from the Union, the default approach would be to favour the Scots.<sup>793</sup>

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<sup>787</sup> *L J*, xvi, 12 February 1700, p. 514: below, p. 193.

<sup>788</sup> Above, pp. 130-138.

<sup>789</sup> For example, Fletcher's speech in [Ridpath], *Proceedings*, pp. 141-150.

<sup>790</sup> *CSPC*, volume 23, Number 723, Parke to Hedges, 19 January 1707, p. 358; Number 834, Sunderland to Parke, 28 March 1707, p. 411.

<sup>791</sup> *HMC Seafield*, Godolphin to Seafield, 24 May 1704, pp. 200-201; BL, Add Ms 34180 f. 38, Seafield to Godolphin, 30 May 1704.

<sup>792</sup> *HMC Bath*, i, Godolphin to Harley 17 and 22 April 1707, p. 169 and p. 171; Harris, *General in Winter*, pp. 206-207.

<sup>793</sup> Snyder, 'Formation of Foreign and Domestic Policy', p. 152.

Nor did Court groups share the 'Gothic' understanding of 'Britain' as an extension of England, propounded by both Tory and Whig polemicists such as James Drake and William Atwood, which held that Scotland, like Ireland, was obliged to follow the English succession.<sup>794</sup> They had their own 'Britannic' agenda separate from that of the English parliament,<sup>795</sup> and entirely understood that the Scottish parliament alone could determine the Scottish succession. In 1703<sup>796</sup> and 1704,<sup>797</sup> as in 1696, Court groups were quite prepared to accept a 'bare' Scottish Act of Security which recognized this principle provided that it imposed no conditions.

Court group perspectives and objectives, therefore, embraced the whole Regal Union. This is evident, for example, at the beginning of Anne's reign when Godolphin observed to Harley that the 'Queen's servants' would soon have their work cut out managing three separate new parliaments in each of the three kingdoms.<sup>798</sup> Their core objectives in relation to Scotland reflected this 'Britannic' perspective, as discussed below.

## Court groups' Scottish objectives

### Aligning the Protestant Succession

As discussed in Chapter 2, the whole Regal Union was under Court group control (subject to parliamentary involvement).<sup>799</sup> Naturally under both William and Anne, Court groups sought to preserve this state of affairs. No Court group in Europe would have acquiesced freely in territorial concessions. Indeed, most sought to expand their territory, for reasons of honour, status and prestige. In this context, it was unthinkable that a British Court group would freely concede the loss of control over any component kingdom.<sup>800</sup> From this fundamental objective of preserving the

<sup>794</sup> Discussed in Ferguson, 'Imperial Crowns', pp. 34-38.

<sup>795</sup> Macinnes, *Union & Empire*, pp. 54-61, and p. 75, discusses these different concepts of 'Britain'.

<sup>796</sup> BL, Add Ms 6420, f. 46, 5 June 1703.

<sup>797</sup> BL, Add MS 34180, f. 62, Seafeld to Godolphin, 22 July 1704; NLS MS 7121, f. 36, Tweeddale to Godolphin 22 July 1704 and MS 7104, f. 39, Godolphin to Tweeddale, 28 July 1704.

<sup>798</sup> *HMC Portland*, iv, 18 August 1702, p. 44.

<sup>799</sup> Above, pp. 81-93.

<sup>800</sup> See Robertson, 'Union, State and Empire', pp. 228-229 for contemporary associations of monarchy with territorial expansion.

British monarchy flowed that of ensuring that the three kingdoms continued to share the same monarch by aligning the succession to their crowns. Since the Revolution had confirmed Ireland's constitutional subordination to the English crown, the English Act of Settlement legislated for the Irish succession, and the Irish parliament recognized the Hanoverian succession in 1703.<sup>801</sup> The need to align the succession was therefore confined to England and Scotland.

Alignment of the succession was also important for security reasons. The experience of the Civil Wars and Revolution had demonstrated that none of the kingdoms could ignore the implications for itself of control over the other by a hostile power.<sup>802</sup> Godolphin was fully aware of this geopolitical reality: 'any body may judge that neither [Scotland] nor [England] can be very secure when they are not under the same succession, and in this both reason and experience seem to agree'.<sup>803</sup> Security considerations were accentuated after the Revolution by the threat of French invasion in support of a Jacobite restoration and the ideological objective of preserving the Revolution's achievement: the aligned succession should be a Protestant, not a Jacobite succession.<sup>804</sup>

Notwithstanding Anne's, Marlborough's and Godolphin's occasional contact with the Jacobite Court for reasons of political insurance,<sup>805</sup> they were individually committed to the Protestant Succession. Anne's title was based on the Revolution statutes in England and Scotland,<sup>806</sup> while she, Prince George, and the Marlboroughs had played pivotal roles in James's overthrow. Marlborough's personal commitment to the Protestant Succession<sup>807</sup> was recognized in June 1701 on his appointment as commander of the English army in Flanders and as William's diplomatic plenipotentiary, which effectively made him William's deputy and heir to his geopolitical outlook.<sup>808</sup>

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<sup>801</sup> Above, pp. 80-81.

<sup>802</sup> Above, pp. 62-63.

<sup>803</sup> *HMC Atholl & Hume*, Godolphin to Atholl, 19 June 1703, pp. 60-61.

<sup>804</sup> Above, pp. 70-71.

<sup>805</sup> Gregg, 'Was Queen Anne a Jacobite?' p. 367; D. Szechi, 'Jacobite Politics in the Age of Anne', *Parliamentary History*, 28 (2009), p. 49.

<sup>806</sup> *HMC Seafield*, Godolphin to Seafield, 24 July 1703, p. 199. Gregg, *Queen Anne*, pp. 149-150.

<sup>807</sup> For example, *MGC*, Marlborough to Lady Marlborough, 10 December 1703, p. 259.

<sup>808</sup> Horwitz, *Parliament, Policy & Politics*, p. 294.

Godolphin's commitment to the Revolutionary regime and Protestant Succession was finally confirmed by his revulsion over the Jacobite plot to assassinate William in 1696.<sup>809</sup>

Hand-in-hand with commitment to the Protestant Succession went fear of Jacobite insurrection. The Revolutionary succession seemed to have been secured by Louis XIV's recognition of William's title in the Treaty of Rijswijk. However, Jacobite hopes revived after Gloucester's death, Louis's recognition of the Pretender in September 1701, and the outbreak of the Spanish Succession war in May 1702. Moreover, the Jacobite Court's hopes for domestic insurrection in its favour began to shift from England to Scotland because of the apparent strength of Jacobite feeling there and the anti-English sentiments expressed in its parliaments from 1700. These suggested that Scotland might provide a bridgehead for a French invasion which would deliver a Jacobite restoration.<sup>810</sup> British Court groups shared this assessment based on intelligence reports and their relations with the Scottish parliament after 1700.<sup>811</sup> This is evident from Godolphin's concern in 1703 that Marlborough and the Dutch would be able to spare military assistance in case of a French descent to exploit unrest in Scotland.<sup>812</sup> It also explains the traction commanded by the 'Scotch Plot' during the winter of 1703-1704 and Godolphin's increasingly alarmist Scottish correspondence concerning reports of brazen Jacobite activity in 1704.<sup>813</sup> He was also concerned that public credit to finance the war demanded public confidence that the Revolution regime was permanent: Jacobite activity therefore had a potentially negative effect on war finance.<sup>814</sup> These fears provide the context for genuine English alarm over the provisions for arming and exercising Scottish fencible men in the Act of Security, and the scare over the sailing of St. Pol's squadron in May 1705.<sup>815</sup> That these concerns

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<sup>809</sup> Harris, *General in Winter*, p. 74 and p. 100.

<sup>810</sup> D. Szechi, *Britain's Lost Revolution: Jacobite Scotland and the French Grand Strategy, 1701–8*. (Manchester, 2015), pp. 111-116; 'Jacobite Politics', p. 53, p. 55 and p. 58.

<sup>811</sup> For example, *Vernon*, iii, 8 and 11 June 1700, p. 73 and p. 76.

<sup>812</sup> *MGC*, Marlborough to Godolphin 29 August 1703, p. 239.

<sup>813</sup> NRS, GD 248/559/36A f. 19, Godolphin to Seafield, 10 August 1704; NLS, MS 7104, f. 37, Godolphin to Tweeddale, 12 August 1704.

<sup>814</sup> Sperling, 'Godolphin and Public Credit', pp. iii-iv.

<sup>815</sup> *LRS*, Seafield to Godolphin, 16 May and 17 May 1705, pp. 41-44.

were well-founded was confirmed by the scale of Forbin's expedition in 1708 which involved 6,000 soldiers and arms for 13,000.<sup>816</sup>

### **Preservation of royal prerogatives**

Court groups in both William's and Anne's reigns were vitally concerned to protect royal prerogatives because they were the basis for their authority over the Regal Union, and over Scotland in particular. As discussed in Chapter 2, the English parliament's vital role in providing war finance enabled the English Country agenda to make substantial inroads into the prerogative, but this was not the case in Scotland.<sup>817</sup> Day-to-day administration and key functions such as troop recruitment were in the hands of the Privy Council and Officers of State, who were all royal appointees. Foreign policy and the conduct of war were prerogative matters, and having only limited financial clout, the Scottish parliament had little influence over them. With no place Acts or Triennial Act, patronage over civil and military appointments was an important tool for managing parliament,<sup>818</sup> as were the unrestricted powers to adjourn, prorogue and dissolve parliament, and call elections.

Weakening such powers increased the risk of Scotland pursuing policies inconsistent with Court group objectives. Moreover, Court groups did not want to leave the Protestant successor 'only the empty name and title of a King without the power', which might make acceptance of the Scottish crown unattractive.<sup>819</sup> Protection of prerogative rights in Scotland therefore overlapped with concerns over the succession and the need for policy alignment between the kingdoms.

### **Policy alignment**

Policy alignment between the Regal Union's component kingdoms was essential if it were to participate effectively in great power geopolitics, and specifically in the wars with France.<sup>820</sup> As well

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<sup>816</sup> Szechi, *Lost Revolution*, pp. 14-55 emphasizes the scale of the threat.

<sup>817</sup> Above, pp. 73-74.

<sup>818</sup> K.M. Brown, *Kingdom or Province? Scotland and the Regal Union 1603-1715*, (Basingstoke, 1992), p. 176 and pp. 179-180.

<sup>819</sup> BL, Add Ms 34180, Seafield to Godolphin, ff. 9-10, 1 July 1703.

<sup>820</sup> Above, pp. 70-71.

as ensuring diplomatic consistency, it was also important for reasons of prestige and the encouragement of British allies.<sup>821</sup> Court groups were not, however, interested in micro-managing Scotland, which the experience of the Cromwellian union suggested was likely to involve a significant financial and administrative burden.<sup>822</sup> Accordingly, alignment essentially concerned foreign policy and war. This was in principle feasible without legislative union, since in both kingdoms these were prerogative matters under Court group control. However, it was constrained by Court group reliance on the English parliament for funding, the overlap between foreign policy and trade (over which Court groups had only limited influence) and by the practical difficulties of exercising control over Scotland's separate institutions.

The Scottish parliament's assertion of control over foreign policy in 1703's Act anent Peace and War was therefore strongly resisted, although ultimately grudgingly conceded. As Godolphin told Seafield, 'England is now at war with France. If Scotland were in peace and consequently at liberty to trade with France, would that not immediately necessitate a war betwixt England and Scotland also?'<sup>823</sup> To Atholl, then Scottish Lord Privy Seal, he wrote: 'the act for putting peace and war out of the power of the successor may at this time bee of the greatest inconvenience imaginable, both to England and Scotland, and must inevitably have the consequence of a separation instead of a union between the two nations and of enforcing Scotland into the arms of France...'<sup>824</sup> Nottingham made the same point to Tarbat, 'it is impossible to imagine that the same King shall be ...at the same time in war or peace with the same foreign power; the consequences are as ridiculous as they would be intolerable to [England]'.<sup>825</sup>

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<sup>821</sup> *HMC Seafield*, Godolphin to Seafield, 24 July 1703, p. 199.

<sup>822</sup> Keith, *Commercial Relations*, p. 70. The practical experience of Union confirmed this: *MGC*, Godolphin to Marlborough, 25 April and 28 April 1707 pp. 755-756; *HMC Bath*, i, Godolphin to Harley, 22 April 1707 pp. 170-171; J. Hoppit, 'Scotland and the Taxing Union, 1707-1815', *The Scottish Historical Review*, 98 (2019), pp. 49-51.

<sup>823</sup> *HMC Seafield*, Godolphin to Seafield, 17 July 1703, p. 198.

<sup>824</sup> *HMC Atholl & Hume*, Godolphin to Atholl, 17 July 1703, p. 61.

<sup>825</sup> BL, Add Ms 29595, f. 237, Nottingham to Tarbat, 17 July 1703.

### Access to Scottish resources?

Court groups had no difficulty exploiting Scottish resources within the Regal Union framework for the purposes of war: the great victories of Anne's reign were all achieved *before* the Union.<sup>826</sup> Their objective therefore was to *preserve* rather than *gain* access to them. These resources were not, however, as significant as both proponents and opponents of the Union argued.<sup>827</sup> Scotland's financial resources were negligible and its revenues could barely support its civil government. Court group interest in them was therefore limited, although measures to promote Scottish prosperity (and hence tax revenues) were supported provided they did not damage English interests on which war funding depended.

However, as long as Scotland possessed a separate government and parliament, the objective of ensuring that it should not provide a bridgehead for a French invasion required the maintenance of a standing army. Given Scottish financial resources, this army was badly equipped and amounted to no more than some 3,000, of which only 2,000 were available after the deduction of Highland garrisons. Its function was entirely domestic,<sup>828</sup> being distinct from regiments raised in Scotland but part of the Dutch or English armies and paid out of Dutch or English funds.<sup>829</sup> Its upkeep had to be met out of the extraordinary parliamentary 'cess' since ordinary revenues were insufficient. English resources could not easily be used: the rumour that Stair had suggested this provoked alarm and was raised by the Country Party's deputation to the Queen in March 1704.<sup>830</sup> Securing parliamentary

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<sup>826</sup> Above, pp. 81-83.

<sup>827</sup> [D. Defoe], *An Essay at Removing National Prejudices against a Union with Scotland, Part 1* (1706) p. 25; Fletcher, *Two Discourses*, pp. 19-20.

<sup>828</sup> *APS*, x, President's speech, Appendix, p. 17.

<sup>829</sup> J. Childs, 'Marlborough's Wars and the Act of Union 1707-14', in E.M. Spiers, E.M. Crang, and M.J. Strickland (eds.) *A Military History of Scotland* (Edinburgh, 2012) pp. 326-327; and S.H.F. Johnston, 'The Scots Army in the Reign of Queen Anne', *TRHS*, 111 (1953), pp. 10-14. See *HMC, Mar & Kellie*, Mar to Leven, 2 March 1706, p. 252, for an example of a regiment raised in Scotland but on the English establishment.

<sup>830</sup> *Marchmont*, iii, Baillie to Lady Grisell, 19 March 1704, pp. 263-264.



sanction for taxation to fund the Scottish army was therefore a core Court group objective under both William and Anne while separate Scottish institutions existed.<sup>831</sup>

Although its army was insignificant, Scotland's importance as a source of recruits for the armed forces was confirmed by the Union's provisions formally extending impressment in time of war to Scots.<sup>832</sup> Macinnes, however, goes further. He argues that England was suffering from a 'demographic deficit' which threatened its ability to participate in the continental war whilst also protecting and developing its American colonies. Scotland therefore provided 'much needed manpower for Empire, manufacturing and war' access to which was secured through the Union.<sup>833</sup>

Although Court groups were certainly concerned to retain access to Scottish manpower, its importance as a driver of union policy should not be overstated. Calls for the Act anent Peace and War to require parliamentary approval for the recruitment of Scots to serve in the English army were defeated,<sup>834</sup> so that union was not essential to preserve future access to Scottish manpower.

Moreover, Scotland's population was only around 1 million out of the Regal Union's 8.7 million, and the Court group's ability to challenge Louis XIV did not depend primarily on population size. The British monarchy was able to deploy large armies and navies principally because it could mobilize its resources more effectively than Louis XIV, owing to a more efficient system of taxation, and a financial system which allowed the English Treasury to borrow more easily and at comparatively low interest rates to meet the costs of war.<sup>835</sup>

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<sup>831</sup> See royal letters to the Scottish parliament: *APS*, x, p. 120, p. 190 and pp. 201-202; ix, p. 12, p. 37; and Curtis Brown, *Letters*, p. 147 and p. 164.

<sup>832</sup> Childs, 'Marlborough's Wars', p. 328. For the importance of extending impressment to Scotland, see the English reaction to the Scots' preliminary articles, BL, Add Ms 61627, 16 December 1702, p. 62.

<sup>833</sup> Macinnes, *Union & Empire*, pp. 189-197, p. 277.

<sup>834</sup> Boyer, *Annals*, 2, 18-19 August 1703, p. 58.

<sup>835</sup> Brewer, *Sinews*, p. 42, pp. 88-91; Dickson, *Financial Revolution*, pp. 9-12.

### Furthering English trade?

After 1660 trade was under parliamentary, not prerogative control in England.<sup>836</sup> Accordingly, English commercial legislation increasingly reflected pressure from commercial interests (in the widest sense of mercantile, trading and industrial interests) represented in parliament rather than Court group initiatives. Parliamentary regulation of commerce was further accelerated by the accretion of parliamentary authority after 1689 and the devastating effects of the Nine Years War.<sup>837</sup> This was reflected in a huge increase in petitions regarding overseas trade, duties on commodities, monopolies based on royal charters, and shipping losses.<sup>838</sup> During the financial and liquidity crises of 1695-1696, pressure from commercial interests was responsible for the establishment of the Council of Trade<sup>839</sup> and parliamentary proceedings against English subscribers in the Africa Company.<sup>840</sup> They could not be ignored because Court group geopolitical ambitions were funded by English taxation and hence depended on English prosperity, as the Lords reminded William in their February 1700 address complaining over Darien.<sup>841</sup>

Consequently, Court group policy was obliged to take English commercial interests into account. For example, when the Spanish Netherlands fell to the Allies after Ramillies, Godolphin sought to have prohibitions on English woollen imports lifted.<sup>842</sup> Later, discussing peace terms with Buys, the *Pensionaris* of Amsterdam, he insisted that they should include a commercial treaty to deal with French discrimination against English traders and encroachments on English commercial interests in North America and the Indies.<sup>843</sup> However, Court group sensitivity to these interests should not be

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<sup>836</sup> Above, p. 63.

<sup>837</sup> P. Gauci, *The Politics of Trade: The Overseas Merchant in State and Society 1660-1720* (Oxford, 2001), p. 183; J.V. Beckett, 'The Glorious Revolution, Parliament, and the Making of the First Industrial Nation', *Parliamentary History*, 33 (2014), pp. 37-51.

<sup>838</sup> Gauci, *Politics of Trade* pp. 212-219: Table 5.1.

<sup>839</sup> Generally known as the Board of Trade. Officially, it was the 'Council of Trade and the Plantations'.

<sup>840</sup> *LJ*, xv, 12-18 December, pp. 610-616; 20 December 1695, pp. 618-619; *HMC Lords*, New Series, ii, pp. 3-21; *CJ*, xi, 17 December 1695, p. 365, 20 January p. 398 and 21 January 1696, pp. 400-407.

<sup>841</sup> *LJ*, xvi, 12 February 1700, p. 511.

<sup>842</sup> *MGC*, Godolphin to Marlborough, 26 May 1706, pp. 562 and fn. 2.

<sup>843</sup> *MGC*, Godolphin to Buys, 3 September 1706, p. 666.

overstated. Although attitudes were shifting, parliament and society were still dominated by landowners, and the value of commercial interests to England was still a subject of debate. While the importance of commerce for national self-enrichment was repeatedly represented to parliament, these claims did not go uncontested and commercial interests had to demonstrate that their concerns were national, not sectional.<sup>844</sup>

Moreover, commercial interests were rarely unanimous,<sup>845</sup> even within ostensibly single trades. For example, while West Country woollen manufacturers continued to lobby long after the passage of the Irish Woollens Act for further restrictions on Irish textile imports, Lancashire and Yorkshire textile manufacturers lobbied in their favour.<sup>846</sup> Commercial influence was therefore inconsistent, and incapable of driving coherent policy. Politically, commercial interests, like any sectional interest, were most influential when Court groups faced difficulties in the English Commons. This may be illustrated by the history of the Irish Woollens Act.<sup>847</sup> Despite intense lobbying from different English textile manufacturing interests during the 1695-1696 economic crises, the Court group was reluctant to impose restrictive measures on the Irish woollen trade which would increase its difficulties with the Irish parliament over the sole right issue.<sup>848</sup> The Act in its final form was only passed following the 1698 election, when the Junto ministry lost control of the Commons, and the 'New Country Party' inflicted a series of defeats on it in an attempt to bring about ministerial change.<sup>849</sup> It was therefore a by-product of English political conflict rather than a manifestation of the power of textile manufacturers. Similarly, complaints over the Admiralty's failure to protect English shipping from French privateers in the 1695-1696 session of the English parliament contributed significantly to the establishment of the Council of Trade.<sup>850</sup> However, the problem did not disappear and continued to

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<sup>844</sup> Gauci, *Politics of Trade*, p. 157 and pp. 216-217.

<sup>845</sup> Gauci, *Politics of Trade* p. 182.

<sup>846</sup> *CJ*, xv, 20 & 21 January, p. 242 and p. 244.

<sup>847</sup> 10 William III, c. 16.

<sup>848</sup> Above, p. 80; H.F. Kearney, 'The Political Background to English Mercantilism, 1695-1700', *Economic History Review*, 11 (1959), p. 485.

<sup>849</sup> P. Kelly, 'The Irish Woollen Export Prohibition Act of 1699: Kearney re-visited', *Irish Economic and Social History*; 7 (1980), pp. 42-44.

<sup>850</sup> Horwitz, *Parliament, Policy and Politics*, pp. 161-162.

be a staple complaint available to any party for the purposes of embarrassing Court groups. For example, it not only featured in Haversham's speech initiating the Tory attempt to censure Godolphin in November 1704, and in the combined Junto and High Tory attack on the Court group in November 1707, but was also the basis of the Junto's strategy for securing Somers' reappointment to high office in 1708.<sup>851</sup>

Indeed, political considerations routinely took precedence over commercial interests in this period.<sup>852</sup> While William acknowledged that trade was 'the pillar of the state', he insisted that its protection was secondary to the state's preservation, for if the state were lost, trade would also be lost.<sup>853</sup> He therefore maintained a policy of confrontation with Louis XIV despite its devastating effect on Dutch and English commerce. In Anne's reign, the Court group's handling of the 'drawbacks' affair in 1707 confirmed that it would not allow English commercial interests to prejudice the accomplishment of its political objectives, in this case, the Union.<sup>854</sup>

Accordingly, Court groups rarely initiated measures specifically to promote English commercial interests. Their objective was rather to *accommodate* these interests in the conduct of policy. Commercial interests were therefore taken into account in *executing* the Union, but do not explain its *origins*.<sup>855</sup>

### Alternative objectives

Macinnes and Riley emphasize the importance of economic and political considerations for Court group policy. While accepting that these, as with English commercial interests, may have influenced the execution of policy, it is difficult to sustain the view that they were its principal drivers, for the reasons discussed below.

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<sup>851</sup> Gregg, *Queen Anne*, p. 254, pp. 266-267; Speck, *Birth of Britain*, pp. 125-126 and p. 145.

<sup>852</sup> P. Gauci, *Politics of Trade*, p. 180.

<sup>853</sup> Troost, *Stadholder-King*, p. 167.

<sup>854</sup> *HMC Bath*, i, Godolphin to Harley, 17 April 1707, p.169; *MGC*, Godolphin to Marlborough 11 April 1707 pp. 749-750, fn. 1; Harris, *General in Winter*, pp. 206-207.

<sup>855</sup> Below, pp. 185-186.

### Preserving the integrity of the English trading system?

Macinnes argues that the scale of Scottish interloping in the English Plantations trade threatened to undermine the customs revenues on which, following a shift from land tax to indirect taxes after 1702, England's ability to raise war finance was founded. The preservation of these revenues was therefore a core objective which was achieved by the Union's extension of the English customs regime to Scotland.<sup>856</sup>

However, while such concerns may have influenced English support for union, it is not clear that protecting English traders and customs revenues from the effects of Scottish interlopers was a principal Court group objective.<sup>857</sup> Court groups were certainly interested in maximizing colonial revenues and aligning colonial governments with its geopolitical priorities.<sup>858</sup> There is plentiful evidence, too, that English merchants, colonial governors, colonial administrators, and the Council of Trade were concerned about the impact of interlopers and foreign competition.<sup>859</sup> It is also clear that these concerns contributed significantly to the passing of the 1696 Plantation Trade Act. Strikingly, however, there is no similar evidence that such pressure contributed to the origins of the Union.<sup>860</sup> Indeed, in the Council of Trade's regular report to parliament in November 1704, contemporaneous with the genesis of the Alien Act, there is no reference to union or to any of the issues which Macinnes argues drove union policy.<sup>861</sup>

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<sup>856</sup> Macinnes, *Union & Empire*, pp. 192-200 and p. 277.

<sup>857</sup> R. Harris, 'The Anglo-Scottish Treaty of Union, 1707: Defending the Revolution, Defeating the Jacobites', *Journal of British Studies*, 49 (2010), p. 40.

<sup>858</sup> For example, *CSPC*, xv, Numbers 260-261, 25 September 1696, pp. 145-146, Council of Trade request for information on trade, population and defence from the Governors of New York and Maryland.

<sup>859</sup> For example, papers submitted to the Lords on the state of the nation's trade in December 1695: *HMC Lords*, New Series, ii, pp. 3-62.

<sup>860</sup> Based on a review of *Calendar of Treasury Books*, xvii-xxi, ed. W.A. Shaw, (London, 1939-1952); *Calendar of Treasury Papers*, iii, ed. J. Redington, (London, 1874); *CSPC*, volumes xvii-xxi; *CSPD*, i-ii; and *Journals of the Board of Trade and Plantations*, i, ed. K.H. Ledward, (London, 1920).

<sup>861</sup> *HMC Lords*, New Series, vi, 30 November 1704, pp. 87-109. The report addresses *inter alia*, trade with Spanish colonies, rates of exchange, difficulties with the proprietary colonies, the defence of Jamaica, English trade figures, and Irish wool imports.

The limited influence of colonial considerations can be illustrated by the matter of the proprietary and charter colonies. Their failure to apply the Navigation Acts, collaboration with pirates, reluctance to co-operate for the purposes of defence, and disregard for royal authority raised concerns as early as 1696. This prompted calls for the resumption of their charters to bring them into line with New York, Massachusetts and other colonies under direct rule. The 1696 Act, which attempted to bring colonial governments under tighter Court group control and to improve their execution of the Navigation Acts, sought to remedy these shortcomings without going so far. Its limited success caused colonial administrators to continue to press for systematic resumption<sup>862</sup> until in 1701 the Council of Trade formally recommended it to the King.<sup>863</sup> However, although East and West New Jersey were resumed in 1702, nothing more was done: indeed, Rhode Island and Connecticut remained Charter colonies until American Independence.

MacInnes also overstates the decline in importance of the land tax and exaggerates the importance of customs revenues. In every year but three between 1688 and 1714, land tax was the largest single source of tax revenue, while the yield from customs *fell* in both absolute and proportional terms after the Union. By contrast, excises on domestic consumption (which were largely unaffected by the interloping trade) steadily increased proportionately and absolutely after the Revolution.<sup>864</sup> The relative importance of domestic excises compared with customs is confirmed by the union negotiations in both 1702-1703 and 1706. The establishment of a common customs regime was not especially contentious, whereas the Court group's insistence on aligning excises was highly so.<sup>865</sup>

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<sup>862</sup> For example, *CSPC*, xvi, Numbers 401 and 404, Randolph to Popple (Council of Trade's Secretary) 25 and 26 April 1698, pp. 180-184.

<sup>863</sup> *CSPC*, xix, Number 286, Council of Trade to the King, 26 March 1701, pp. 141-143; xx, Number 55, Council of Trade to Secretary Manchester, 24 January 1702, pp. 41-48.

<sup>864</sup> Brewer, *Sinews*, pp. 95-101 and figure 4.2, citing British Parliamentary Papers, volume 35 (1868-9); J.V. Beckett, 'Land Tax or Excise? the levying of taxation in Seventeenth-and-Eighteenth century England', *EHR* 100 (1985), pp. 305-308, citing Chandaman, *English Public Revenue 1660-1688* (Oxford 1975) and Mitchell and Deane (eds.) *Abstract of British Historical Statistics* (Cambridge, 1962).

<sup>865</sup> Below, pp. 217-218.

However, its purpose was not to raise revenues to finance the war but, as discussed below, to protect English traders and manufacturers from 'underselling'.<sup>866</sup>

Consideration of the Union timeline confirms that Court groups were not driven to Union by 'considerations of political economy'. If, as Macinnes argues, negative English attitudes caused the collapse of union negotiations in February 1703,<sup>867</sup> then the window in which these considerations could reverse them is implausibly narrow. It would close with the parliamentary passage of the Alien Act (which sanctioned English union negotiations) in January 1705, ostensibly a period of roughly two years. However, during most of this period, the Court group was publicly committed to its succession initiative, not union.<sup>868</sup> At most, therefore, there were about six months between the failure of the succession initiative in July 1704 and the passage of the Alien Act in which these considerations could have brought about a reversal in English attitudes.

It is also difficult to sustain an argument for the influence of political economy before the 1702-1703 negotiations. Macinnes specifically attributes the influence of political economy to the demands of financing and resourcing war.<sup>869</sup> However, Great Britain was at peace from 1698 to 1702, and William's geopolitical strategy during most of this period was based on avoiding war (in the expectation that the English parliament would not finance it) by the negotiation of the Partition Treaties.<sup>870</sup>

### **Parliamentary advantage?**

Characteristically, Riley explained union policy in terms of political self-interest. After the humiliating series of English parliamentary defeats inflicted on the Junto Whig ministry by the 'New Country Party' after the election of 1698,<sup>871</sup> he argues that it was 'conventional political wisdom' that

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<sup>866</sup> Below, p. 185-186.

<sup>867</sup> Macinnes, *Union & Empire*, pp. 94-95.

<sup>868</sup> Below, pp. 226-227.

<sup>869</sup> Macinnes, *Union & Empire*, pp. 191-199, p. 243 and p. 277

<sup>870</sup> W. Troost, 'Leopold I, Louis XIV, William III and the Origins of the War of the Spanish Succession', *History*, 103 (2018), p. 566.

<sup>871</sup> Above, pp. 122-123 and p. 179, below, p. 194.

legislative union would strengthen Court group influence over parliament.<sup>872</sup> The expectation was that such a union would allow the introduction of Whiggish Court-supporting Scots into a British House of Commons.<sup>873</sup> Court group interest in union during Anne's reign is similarly explained, only that paradoxically, it was expected that union would reinforce its support in the *Lords*, where there was a precarious Whig majority.<sup>874</sup>

This explanation is unconvincing. In neither reign could the extent or inclination of Scottish representation in a union parliament be anticipated. Although William's Scottish Convention parliament comprised largely Whiggish Revolutioners it was, as Riley himself argued, so divided by rivalries that it could not be relied on for support.<sup>875</sup> Recent scholarship, while arguing that its divisions owed as much to principle as much as magnate rivalry, has not displaced this assessment.<sup>876</sup> Indeed, after the loss of control over the Scottish parliament in May 1700 and the difficulties of the subsequent session, it is scarcely credible that William believed that union would deliver a parliamentary advantage. As for Anne's reign, the Scottish parliamentary sessions of 1703-1705 can hardly have suggested that its integration into a British parliament would benefit the Court group. Indeed, the impact of Scottish representation at Westminster continued to be uncertain after ratification, which occasioned much 'subterranean' manoeuvring between Godolphin, Harley and the Junto for advantage in the new British parliament before it met.<sup>877</sup> Court groups, therefore, while naturally concerned to ensure that union worked to their parliamentary advantage, were not driven to union by such considerations.

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<sup>872</sup> Riley, *Union*, pp. 311-312.

<sup>873</sup> Riley, *Union*, pp. 23-26.

<sup>874</sup> Riley, *Union*, p. 163.

<sup>875</sup> Riley, *King William*, pp. 157-162; *Union*, pp. 15-22.

<sup>876</sup> D.J. Patrick, 'Unconventional Procedure: Scottish Electoral Politics after the Revolution', in *Parliament and Politics in Scotland*, pp. 208-244.

<sup>877</sup> Riley, *Union*, pp. 259-271.



## Core objectives and the Union

Post-Revolution Court group Scottish objectives, therefore, revolved around securing the Protestant Succession, protecting royal prerogative rights, maintaining access to manpower resources, and ensuring military and diplomatic policy alignment. As their geopolitical ambitions required English parliamentary funding, Court groups were also concerned to avoid conflict with commercial interests represented in the English parliament, which implied alignment also of commercial policy.

The Union systematically met all these objectives. Securing the Protestant Succession was satisfied by Article 2 of the Treaty, which by creating a new, single kingdom with one rule of succession ended the existential threat to the British monarchy if the Scottish and English successions were not aligned. This was achieved without conceding any new limitation of prerogative powers that might loosen Court group control. Indeed, the elimination of the Scottish parliament and government not only ensured high-level policy alignment but also strengthened Court group control, since it no longer had to manage separate Scottish parliaments and ministries, and did not have to work through them to secure access to Scottish manpower, and funding for the separate Scottish civil and military establishments.<sup>878</sup>

The Union's pluralistic features reflected limited Court group requirements for alignment, so that day-to-day Scottish government continued largely as before. The main exception was in the imposition of higher English customs and of excises on Scotland. This reflected the need to accommodate English commercial interests in the execution of policy. One of the few areas of consensus among English commercial interests was the fear that Scotland, with lower labour costs and lower duties, might 'undersell' them.<sup>879</sup> This was clearly articulated by English coal and salt manufacturers in the 1668 commercial union negotiations.<sup>880</sup> It was therefore highly unlikely that these interests would accept Scottish access to the English trading system without legislative control

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<sup>878</sup> Above, pp. 111-112.

<sup>879</sup> Defoe, *History*, pp. 140-141.

<sup>880</sup> Hughes, 'Negotiations for Commercial Union', pp. 40-47.

over Scottish customs and excises. Accordingly, the procuring of such access from the English parliament necessarily implied legislative union, as Lord Keeper Bridgeman reported after the failure of the 1668 commercial union negotiations.<sup>881</sup>

The same concern about underselling also explains Court group insistence on aligning excise duties, which was a fundamental feature of the Union<sup>882</sup> and the most controversial issue in the 1702-1703 union negotiations.<sup>883</sup> This connection between incorporating union, a communication of trade and a common excise was widely understood.<sup>884</sup> Pitmidden, speaking to the Scottish parliament in support of the Union in 1706, asked whether England ‘in common prudence’ would ‘communicate its Trade and Protection to this Nation, till both Kingdoms are incorporated into one?’<sup>885</sup>

Other provisions similarly reflect a concern to accommodate important commercial interests for example, those of the East India Company.<sup>886</sup> These were not, however, exclusively English, and included Scottish coal and salt manufacturers.<sup>887</sup> Moreover, English interests were not uniformly successful in shaping the terms of the Union. For instance, the reaction of English textile manufacturers in 1704 to the Scottish Wool Act was important in generating English parliamentary support for union.<sup>888</sup> Nevertheless, the limitations on the free trade in wool between the kingdoms proposed by the English commissioners in the 1702-1703 negotiations<sup>889</sup> were not included in the terms of the Union.

The Union, therefore, satisfied fundamental Court group Scottish objectives. However, provided that the separate Scottish ministry and parliament could be controlled, meeting these objectives did not

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<sup>881</sup> Keith, *Commercial Relations*, p. 93.

<sup>882</sup> Above, pp. 98-99.

<sup>883</sup> Below, pp. 217-218.

<sup>884</sup> See Defoe, *History*, pp. 395-396 for Clerk’s explanation to the Scottish parliament of English insistence on a common excise.

<sup>885</sup> Quoted in Defoe, *History*, p. 315. See also Blackerby Fairfax, *A discourse on the uniting Scotland and England* (London, 1702), pp. 24-25.

<sup>886</sup> A. Mackillop, ‘A Union for Empire? Scotland, the English East India Company and the British Union’, *SHR*, 87 (2008) (Supplement), pp. 118-119 and pp. 124-125.

<sup>887</sup> Above, p. 99.

<sup>888</sup> Above, pp. 158-159; Keith, *Commercial Relations*, pp. 102-109.

<sup>889</sup> BL, Add Ms 61627, English response to Scottish trade proposals, 16 December, pp. 60-61.

*necessarily* require legislative union. For example, a Scottish Act of Settlement along English lines would have delivered the Protestant Succession; and for as long as the Regal Union existed, the exercise of prerogative rights would ensure access to Scottish resources. Indeed, post-Revolution Court groups succeeded in mobilizing the resources of the whole Union of the Crowns in both the Nine Years and Spanish Succession wars.<sup>890</sup> What was it, therefore, that convinced them that their objectives could no longer be satisfied by the *status quo*? Examination of the union initiatives at the end of William's reign and beginning of Anne's shows that the geopolitical and domestic impact of the Darien episode was responsible for this reassessment.

## Darien and Union

The connection between Darien and union began with the Africa Company's foundation in 1695, which provoked protests from powerful commercial interests represented in the English parliament.<sup>891</sup> Indeed, it has been argued that the Scottish ministers responsible for establishing the Company anticipated this reaction and hoped it might stimulate English interest in union.<sup>892</sup> This it did: on 12 December 1695, when the Lords heard the East India Company's protest, Bishop Burnet, seconded by Rochester (seemingly on their own initiatives) moved that a day should be appointed to consider a union between England and Scotland.<sup>893</sup> The Lords' reaction was positive, as Scottish Secretary of State Johnstone reported enthusiastically to the Scottish Chancellor.<sup>894</sup> Although Burnet's initiative came to nothing, it showed that prominent politicians in both kingdoms recognized that Scotland's admission to the English trading system within a legislative union might avoid potentially damaging conflicts of interest. As Johnstone told Annandale after the Company's decision to establish a colony in Darien, 'Much will depend upon accidents, and if some happen... I

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<sup>890</sup> Above, pp. 82-83 and pp. 176-177.

<sup>891</sup> Above, pp. 75-76.

<sup>892</sup> G. Townend, 'Republicans, Unionists and Jacobites: The 1st Marquess of Tweeddale and the Restoration of the British Parliament', in R.A. Gaunt and D.W. Hayton (eds.) *Peers and Politics, c. 1650-1850: Essays in Honour of Clyde Jones* (Chichester, 2020), pp. 34-61.

<sup>893</sup> *HMC House of Lords*, New Series, ii, p. 6, fn.

<sup>894</sup> NLS, MS 14408, f. 433: Johnstone to [Tweeddale], 12 Dec. 1695.

make no doubt but this nation will gaine in the business, which will produce an union in trade betwixt the two kingdoms'.<sup>895</sup>

### **Geopolitical impact**

The English interests threatened by the Africa Company were not only commercial. Certainly, the Lords address of 10 February 1700 complained that Darien was 'inconsistent with the Good of the Plantation Trade of this Kingdom', and reminded the King that *British* security depended on *English* funding, which ultimately was based on English trading prosperity.<sup>896</sup> However, it also complained that Darien might disturb the 'Peace and good Correspondence with the Crown of Spain'. Whatever Scotland's aspirations to an independent trading policy, and whatever the Company's right to Darien,<sup>897</sup> it did not have the resources to defend such a policy.<sup>898</sup> As the Act establishing the Company obliged the King to provide it with his protection, Scotland might therefore drag England into a war to defend a project which threatened English trade.

This was no theoretical risk. Spain regarded the colony as an invasion of its territory and a breach of its 1670 treaty with Great Britain. As Johnstone admitted, 'it is a jest to expect that the Spaniards will suffer them there...They will allow them as soon to settle at the gates of Madrid.'<sup>899</sup> Indeed, Canales, the Spanish ambassador to London, formally protested over the breach of the treaty in May 1699,<sup>900</sup> and Spain began to mobilize its forces to expel the Scots.<sup>901</sup>

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<sup>895</sup> *HMC Johnstone*, Johnstone to Annandale, 10 April 1699.

<sup>896</sup> *LJ*, xvi, p. 511.

<sup>897</sup> For example, 'Philo Caledon': *A Defence of the Scots Settlement at Darien* (Edinburgh, 1699) pp. 3-10. and [R. Ferguson], *A Just and Modest Vindication of the Scots Design for the having established a colony at Darien* (Edinburgh, 1699), pp. 61-135.

<sup>898</sup> *CSP*, Lord Advocate to Carstares, 12 August 1699, p. 490.

<sup>899</sup> *HMC Johnstone*, Johnstone to Annandale, 10 April 1699.

<sup>900</sup> *HMC, Lords*, New Series, iv, p. 73: memorial of the Spanish Ambassador; NUL, PwA, ff. 2675-2676 for the British response; Onnekink, 'Portland and Scotland', p. 247.

<sup>901</sup> C. Storrs, 'Disaster at Darien (1698–1700)? The Persistence of Spanish Imperial Power on the Eve of the Demise of the Spanish Habsburgs', *European History Quarterly*, 29 (1999), pp. 8-9 and pp. 11-15.

William had no wish to provoke war with Spain, his ally and a far from a negligible power,<sup>902</sup> which the English parliament would never consent to finance. Furthermore, the Darien episode coincided precisely with an extremely delicate moment in European diplomacy. This concerned the succession to the Spanish Monarchy following the death (in January 1699) of the principal beneficiary of the treaty only recently concluded between William and Louis XIV for its partition on the expected demise of the childless Carlos II.<sup>903</sup> The Spanish Netherlands were strategically important for both British and Dutch security, so William sought to negotiate a second Partition Treaty to prevent them falling into Louis's hands. The Spanish Court, however, was determined to avoid partition, and sought to incentivize potential successors to accept a will from Carlos which preserved the integrity of the Monarchy, while discouraging partition negotiations.<sup>904</sup> In October 1699 Canales was therefore instructed to protest over the rumoured terms of the second treaty. This provoked a diplomatic incident in which Canales was expelled and Spain retaliated by expelling Stanhope, William's ambassador in Madrid.<sup>905</sup>

Darien therefore provided Louis with an opportunity to detach Spain from its British and Dutch allies. In March 1699 Stanhope warned William of this possibility: '[The French ambassador] certainly designs to incite a quarrel between England and Spain in the Indies, and in that case has undoubtedly promised his master's assistance to Spain against us, which should be an endearment to these people as extremely to facilitate his being received as successor to the Monarchy, and exclude us as being enemies from any share.'<sup>906</sup> This is exactly what happened. In June 1700, Carlos II and the Spanish Council of State decided that the whole Spanish Monarchy should be willed to Louis's grandson Philippe, on condition that its integrity be preserved. Further, a powerful force was sent to the Caribbean to destroy the Scottish colony and demonstrate the Monarchy's

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<sup>902</sup> See Storrs, *Resilience*.

<sup>903</sup> The 'First Partition Treaty', negotiated while the Scots were sailing to Darien.

<sup>904</sup> Julio L. Arroyo Vozmediano, 'Spain and the Partition Treaties, 1697-1700', *International History Review*, 41 (2019) pp. 184-186.

<sup>905</sup> *Luttrell*, iv, pp. 566-567.

<sup>906</sup> Arroyo Vozmediano, 'Spain and the Partition Treaties', pp. 186-187 and fn. 55, citing National Archives, State Papers 94/74 145, Stanhope to Vernon, 18 March 1699.

determination to defend its integrity by a display of strength against one of the signatories to the Second Partition Treaty.<sup>907</sup>

Intrinsic to these difficulties was a policy alignment failure arising from the prerogative conduct of foreign policy by the 'King of Great Britain' and the domestic legal distinctions between Scotland and England. This problem had been apparent in 1697 when the Senate of Hamburg expressed surprise that Rycaut's memorial claimed that the Africa Company was acting without royal approval when it was abundantly clear that it was acting in accordance with the Scottish Act and Royal Patent.<sup>908</sup> The potential for confusion and embarrassment was fully realized when the Darien colony was established. The Spanish authorities were unable, or reluctant, to distinguish between William's English and Scottish subjects, and Admiral Benbow, commanding the English Caribbean squadron, reported that English merchandise, seamen and ships were being seized without payment by the Spaniards, notwithstanding his assurances that the Scots were acting without William's approval. Indeed, the commander of the Spanish *Barlovento* fleet noted that these assurances were inconsistent with papers he had seen confirming that the Scots were acting in accordance with the King's authority. This inevitably caused the Spanish authorities to suspect duplicity and that Benbow's mission was really to support the Scots.<sup>909</sup> Indeed, this was consistent with their understanding of the First Partition Treaty negotiations in which awarding Spanish Caribbean islands to William had been discussed in return for his supporting a Habsburg successor.<sup>910</sup> Although Stanhope was briefed on the measures taken against the Company to reassure Spain,<sup>911</sup> these

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<sup>907</sup> Arroyo Vozmediano, 'Spain and the Partition Treaties', pp. 191-192.

<sup>908</sup> Comunale, 'Ill Used', p. 29.

<sup>909</sup> Orr, *Scotland and Darien*, pp. 59-67. Spanish suspicions were reinforced when the Darien colonists pretended to be English: the Africa Company ship *Dolphin* was flying English colours when it grounded off Cartagena (pp. 37-43).

<sup>910</sup> J.C. Rule, 'The Partition Treaties 1698-1700: a European View', in *Redefining William III* p. 125; Arroyo Vozmediano, 'Spain and the Partition Treaties', p. 187.

<sup>911</sup> Stanhope, *Spain Under Charles II*, Vernon to Stanhope, 7 March p. 129-128, and Stanhope to Vernon, 29 April 1699, p. 136. Orr, *Scotland and Darien*, pp. 55-56 and pp. 62-63, citing Kent History and Library Centre, U1590, 0538; 022/2 and 033/15.

efforts were undermined when news reached Madrid that the Company had sent a relief force to the Caribbean.

### **Domestic impact**

Darien's impact was not limited to damaging the Court group's geopolitical strategy and credibility: it did enormous damage to the Court group's ability to achieve its domestic Scottish objectives. Its apparent sensitivity to English interests and in particular William's evident duplicity confirmed the narrative of English influence in Scottish affairs. Darien enabled Hamilton and Tweeddale to unify the parliamentary opposition into a 'Country Party' and to discredit the Scottish ministry, which was accused of complicity in the colony's failure. The scale and extent of the financial loss provided the opposition with enormous leverage which was fully exploited to bring pressure for a change of ministry and the passage of Country measures.<sup>912</sup> As well as organizing a National Address in December 1699 (demanding an early recall of parliament) the Country Party leaders mobilized professional polemicists<sup>913</sup> who did not scruple to blame the Court group for the colony's failure in highly inflammatory language. The English Cabinet was especially outraged by Ridpath's *Enquiry*,<sup>914</sup> and sought to have the printer discovered on the basis that it contained 'several expressions tending to treason'<sup>915</sup> and have the text condemned by parliament.

These tracts did not merely abuse the King and his advisers. The Regal Union was clearly not operating in Scottish interests, so its reform was demanded. These demands included a closer union with England, particularly in trade. For example, 'Philo Caledon' argued 'we have no reason to be fond of having the Union of the Crowns continu'd *except the Interest of the Nations be more closely united than ever they have hitherto been*'. This was accompanied by veiled threats: the English were urged to 'consider how fatal it may be to them if by any Emergency we should be forced to break off

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<sup>912</sup> Above, pp. 76-77.

<sup>913</sup> Notably Ridpath and the Kirk minister, Robert Wylie: Bowie, *Public Opinion*, pp. 68-69; Riley, *King William*, p. 135.

<sup>914</sup> [G. Ridpath] *Enquiry into the Causes of the Miscarriage of the Scots Colony at Darien* (Glasgow, 1700).

<sup>915</sup> BL, Add Ms 40781, 7 January 1700 p. 121; *Luttrell*, iv, p. 601; *Vernon*, ii, 2 December 1699, p. 374

the Union of the Crowns and enter into a French Alliance'.<sup>916</sup> Ridpath's *Enquiry* roundly asserted that the Darien disaster was 'a visible effect of the Union of the Crowns...' so that the Scots had 'all the reason in the world, to dissolve that union, *except the Nations be more closely united, and on a better footing*'. He concluded that 'our disasters are no way to be remedied, but either by a total Separation, or a closer Union of the two kingdoms'.<sup>917</sup>

### **The first union initiative**

Closer union also attracted Court group interest.<sup>918</sup> The abolition of the separate Scottish administration and parliament, which evidently required close supervision and management, would promote policy alignment, thereby precluding future conflicts of interest and intense diplomatic damage and embarrassment. Furthermore, if union eliminated the obnoxious discrimination imposed on the King's Scottish subjects by the Navigation Acts, it might also mollify Scottish opinion and relieve pressure on the Scottish ministry. The Scottish ministry's views on an 'intire' union were therefore canvassed: this is clear from Chancellor Marchmont's positive response to a letter from William's Scottish under-secretary, Pringle, seeking his opinion on union.<sup>919</sup> It is also clear that union was already being discussed enthusiastically by the Scottish ministry, Marchmont having already concurred with Seafeld on its benefits.<sup>920</sup> Indeed, it was welcomed by the ministry, since a union which offered valuable trading concessions would potentially resolve for it the conflict between loyalty to the King and loyalty to Scottish interests. Pringle himself was an enthusiast, as was the Duke of Argyll.<sup>921</sup>

Nevertheless, the King proceeded cautiously and delayed recommending union to the English parliament pending a favourable opportunity. He did not want to appear to be conceding to Scottish

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<sup>916</sup> 'Philo Caledon', *Defence*, dedication and pp. 37-38. Emphasis added.

<sup>917</sup> [Ridpath], *Enquiry*, p. 40. Emphasis added.

<sup>918</sup> NLS, MS 7104, Basil Hamilton to Haldane of Gleneagles, 28 December 1699, f.16.

<sup>919</sup> *Marchmont*, iii, Marchmont to Pringle, 23 December 1699, p. 199.

<sup>920</sup> *Marchmont*, iii, Marchmont to Seafeld, 7 October 1699, p. 178.

<sup>921</sup> *HMC Marchmont*, Pringle to Marchmont, 25 January and 15 February 1700, p. 152; *HMC Johnstone*, Seafeld to Annandale, 11 January 1700 p. 115; and Argyll to Annandale, 20 January 1700, pp. 115-116.



demands, especially when expressed in disrespectful and menacing terms,<sup>922</sup> and possibly with Jacobite encouragement.<sup>923</sup> It was instead proposed by Peterborough, seemingly without Court group approval, in the Lords' debate over Ridpath's *Enquiry* on 10 January 1700. This was well received: 'in short, everybody was for the union', including the Tories Normanby, Rochester and Godolphin, and Whigs such as Burnet. Some, however, awaited a clear steer from the Court group: Halifax opposed it but said that had the proposal arisen in 'a regular way...he should not be against it'.<sup>924</sup> In its absence, the Lords considered the impact of Darien on relations with Spain and on English trade, resulting in the 10 February address. They did, however, set aside a day to consider how a union might be progressed.<sup>925</sup> Riley gives the impression that no such steer was ever given,<sup>926</sup> but in fact the King made his wishes abundantly clear in his reply to this address. This merits quotation for its clear exposition of the importance for the Court group of policy alignment to avoid a repetition of Darien:

His Majesty...cannot but have a great Concern and Tenderness for His Kingdom of Scotland...; and is very sensibly touched with the Loss His Subjects of that Kingdom have sustained, by their late unhappy Expeditions, in order to a Settlement at Darien: *His Majesty does apprehend, that Difficulties may too often arise, with respect to the different Interests of Trade between His Two Kingdoms, unless some Way be found out to unite them more nearly and completely...*<sup>927</sup>

Given this direction, the Lords expeditiously passed a bill empowering the King to appoint commissioners to negotiate a union with Scotland. Difficulties were, however, expected in the Commons,<sup>928</sup> where Seymour and Musgrave had already expressed a strong aversion to union in a

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<sup>922</sup> *HMC Johnstone*, Seafield to Annandale 11 January 1700, p. 115; Argyll to Annandale 20 January 1700, pp. 115-116; *Vernon*, ii, 11 January 1700, p. 403.

<sup>923</sup> *HMC Johnstone*, Queensberry to Annandale, 2 November 1699, p. 112.

<sup>924</sup> *Vernon*, ii, 11 January 1700, p. 403; NLS, MS 7021, Basil Hamilton to Tweeddale, 11 January 1700, ff. 5-6.

<sup>925</sup> *LJ*, xvi, 10 February 1700, p. 512.

<sup>926</sup> Riley, *Union*, pp. 24-25, follows Argyll's account in which Peterborough's intervention frustrated William's intentions: *HMC Marchmont*, Argyll to Annandale, 20 January 1700, pp. 115-116. No other account, however, supports this interpretation.

<sup>927</sup> *LJ*, xvi, 12 February 1700, p. 514. Emphasis added.

<sup>928</sup> *HMC Marchmont*, Pringle to Marchmont, 15 February 1700, p. 152.

debate over Ridpath's *Enquiry*.<sup>929</sup> The Bill was sent down to them with a message stressing its importance and proposing a conference between the Houses to discuss it. Significantly, in view of his later prominence in delivering the Union, the chairman of the committee reporting on the agenda for the proposed conference was Godolphin.<sup>930</sup>

The bill was, however, rejected by the Commons on 5 March. This defeat has been interpreted as evidencing general English, and especially Tory, hostility to union. It should, however, be seen in the context of the systematic obstruction of Court group business by the 'New Country Party' in its attempt to force the King to dismiss his Junto-led ministry, which resulted in a series of serious defeats. These included the disbanding of most of the army, the imposition of the Irish Woollens Act, and the tacking of the resumption of Irish forfeitures to a supply bill.<sup>931</sup> The King only reluctantly acquiesced to the resumption after a serious inter-cameral dispute contemporaneous with the rejection of the Lords' union bill.<sup>932</sup> The collapse of the 1700 union initiative was, therefore, a result of English parliamentary conflict, and not necessarily a reflection of anti-union conviction in the Commons.

### Darien, succession and Union

Gloucester's death obliged William to concede to 'New Country' pressure, call fresh elections and appoint a new Tory-led English ministry which could control the Commons for the purposes of legislating to settle the Protestant Succession in England. This was rendered urgent by the prospect of renewed war following Louis XIV's acceptance of Carlos II's will and renunciation of the Second Partition Treaty in November 1700, followed by the publication of his decision not to exclude his grandson from the French succession and the ejection of Dutch garrisons from their barrier fortresses in February 1701. Consequently, English Country opinion was able to leverage the

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<sup>929</sup> *Vernon*, ii, 16 January 1700, p. 408; *CJ*, xiii, 15 January 1700, p. 123. This was the occasion of Seymour's notorious slander of Scotland.

<sup>930</sup> *LJ*, xvi, 28 February 1700, pp. 529-530.

<sup>931</sup> Above, pp. 122-123 and p. 179.

<sup>932</sup> Horwitz, *Parliament, Policy and Politics*, pp. 262-270.

succession issue to oblige the King to concede substantial limitations on the prerogative in the English Act of Settlement.

The cancellation of the Dutch and English *Asiento* contracts, their transfer to the French Guinea Company and Louis's declaration of support for the Jacobite claim to the British crowns in September 1701 further increased the likelihood of war with France, making imperative the settlement of the Protestant Succession in Scotland. As Nottingham reminded the Lords in February 1702, 'they could not reckon themselves secure in the settlement of the succession so long as the same were not done in Scotland, for that were to leave a large gape for the Prince of Wales to enter at...'<sup>933</sup> Crucially, however, the passage of Scottish succession legislation was rendered much more difficult by Darien's enduring impact on the Court group's ability to control the Scottish parliament, as discussed below.

### **Loss of control over the Scottish parliament**

Even after Louis's acceptance of Carlos II's will, William hoped that Spain would resist integration into the French monarchy. Accordingly, his freedom to deal with Scottish demands for an Act asserting Scotland's right to Darien continued to be limited: 'it would embroil us with Spain and perhaps other princes', he told his English Cabinet.<sup>934</sup> Consequently, Scottish agitation over Darien intensified. Anticipating the parliamentary session of May 1700, Country polemicists leveraged wider public concern over Darien, taxation, the maintenance of a standing army and the decay of trade to make detailed legislative proposals.

These challenged fundamental Court group Scottish objectives because they were precisely calculated to reduce Court group control over the Scottish parliament.<sup>935</sup> For example, Ridpath called for Scottish equivalents of existing English limitations on the prerogative, such as triennial

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<sup>933</sup> *HMC Marchmont*, Pringle to Marchmont, 26 February 1702, p. 154; Burnet, *History*, iv, p. 544.

<sup>934</sup> *Vernon*, iii, 4 June, 1700 p. 69; BL, Add MS 40781, 6 June 1700, p. 157.

<sup>935</sup> This objective was explicit in the 'limitations' proposed in 1703: *Lockhart*, p. 132.

parliaments and the exclusion of placemen.<sup>936</sup> Pitmidden called for *biennial* parliaments, *habeas corpus*, the replacement of the army by a militia, the exclusion of placemen, parliamentary control over Privy Council appointments, and a *parliamentary* council of trade.<sup>937</sup> Both argued that Darien had shown that prerogative powers which had previously encroached on the rights of the Scottish parliament were now controlled by the English parliament. Consequently, the King could not keep his Scottish coronation oath,<sup>938</sup> and was 'forced to do diverse things prejudicial to the interests of Scotland on account of Representations...made to him by an English parliament with whom (as representing a more powerful nation) he is oblig'd to comply.'<sup>939</sup> These polemics were reinforced by the systematic organization of addresses to parliament from individual shires and burghs, many using a common template.<sup>940</sup>

The strength of feeling over Darien cost the Court group control over the Scottish parliament. When it met in May 1700, parliament supported a Country Party resolve to assert the Company's right to the colony by an Act of parliament,<sup>941</sup> which forced the new High Commissioner, Queensberry, to adjourn without securing supply for the army. This stemmed parliamentary pressure, but extra-parliamentary pressure persisted and was remarkable for its scope and intensity. A second National Address demanding a recall of parliament<sup>942</sup> was confined to MPs, but a third was extended to a much wider constituency.<sup>943</sup> Popular participation in 'crowd' activity was stimulated by the distribution of polemical tracts to selected locations<sup>944</sup> and was frequently associated with violence.

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<sup>936</sup> [Ridpath], *Grievances*, p. 44 and p. 48.

<sup>937</sup> [Pitmidden], *Interest of Scotland*, Essay III, p.76 and pp. 105-109.

<sup>938</sup> [Ridpath], *Grievances*, p.18.

<sup>939</sup> [W. Seton of Pitmidden], *A Short Speech by a Worthy Member in Parliament concerning the present State of the Nation*, (Edinburgh, 1700), p. 4.

<sup>940</sup> Bowie, *Public Opinion*, p. 32.

<sup>941</sup> *APS*, x, p.195, Appendix, p.42.

<sup>942</sup> *Luttrell*, iv, p. 653.

<sup>943</sup> Bowie, *Public Opinion*, p. 33.

<sup>944</sup> Patrick, 'People and Parliament', pp. 238-239.

For example, calls for the illumination of windows to celebrate the colonists' defeat of a Spanish patrol at Toubacanti inevitably caused a full-scale riot in Edinburgh in June 1700.<sup>945</sup>

The scale and violence of these protests seriously alarmed the Scottish ministry. 'God help us', a Scottish army colonel told Carstares, 'we are ripening for destruction'. In addition to clamour for the recognition of the Company's right to Darien and 'to be eased of all subsidies and taxes', he reported talk of holding a convention of estates in Perth guarded by armed highlanders if the King refused to recall parliament.<sup>946</sup> The English ministry shared this concern: 'The Scotch look as if... nothing will please them but setting up for themselves...they push for extremities and besides the support of Darien they aim at removing the present ministry in Scotland, and that they may have no forces kept up in time of peace.'<sup>947</sup> Irish troops were moved to Ulster in case unrest spread from Scotland.<sup>948</sup>

The Court group's response was complicated by the Scottish ministry's sympathy for asserting Scotland's right to Darien.<sup>949</sup> Ministers including Queensberry and Seafield urged the King not to leave for the Netherlands that summer and to attend the Scottish parliament in person,<sup>950</sup> while various concessions were floated.<sup>951</sup> The strategy eventually adopted when parliament resumed in October was to satisfy moderate constitutional demands to demonstrate the ministry's good faith, before tackling the difficult issues of Darien and supply for the army.<sup>952</sup> Accordingly, Queensberry's instructions allowed him to make specified concessions,<sup>953</sup> while in a conciliatory letter to parliament William explained his refusal to support an Act asserting the Company's right to Darien, acknowledged that his Scottish ministers had pressed him for such an Act, expressed regret for the

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<sup>945</sup> Bowie, *Public Opinion*, p. 34.

<sup>946</sup> *CSP*, Colonel Ferguson to Carstares, 15 June 1700, pp. 527-528.

<sup>947</sup> *Vernon*, iii, 8 June 1700, p. 73; and 11 June 1700, pp. 75-76.

<sup>948</sup> *Luttrell*, iv, p. 660.

<sup>949</sup> For example, *CSP*, Lord President Melville to Carstares, 4 June 1700, pp. 516-517; Riley, *King William*, p. 132.

<sup>950</sup> *Vernon*, iii, 18 June 1700 p. 86; *CSP*, Queensberry to Carstares, 19 July 1700, pp. 571-572; Advocate to Carstares, 20 July, 1700 p. 575; Seafield to Carstares, 24 July 1700, p. 577.

<sup>951</sup> *Vernon*, iii, 11 June 1700, p. 78; Riley, *King William*, pp. 146-147.

<sup>952</sup> Riley, *King William*, pp. 149-150; *CSP*, Philiphaugh to Carstares, 26 September 1700, pp. 659-660; *APS*, x, p. 208.

<sup>953</sup> BL, Add MS 6420, ff. 30 and 32, 4 and 25 October 1700.

Company's losses and promised to support proposals for reparations.<sup>954</sup> Recourse was nevertheless necessary to the distribution of places, pensions and outright bribes to bring back erstwhile ministerial supporters whose support had wavered over Darien.<sup>955</sup>

This strategy was not an unqualified success. The ministry conceded a *Habeas Corpus Act*, the recission of prerogative control over foreign trade, and prohibitions of imports of French liquor and foreign textiles.<sup>956</sup> Nevertheless, an Act asserting the legality of the Darien colony was only avoided by offering as an alternative an address to the King. Although represented by the ministry as a victory, the address was in fact very strongly worded, detailing grievances articulated in four *unanimous* parliamentary Resolves which barely avoided direct criticism of the King. These roundly condemned the English 'invasion upon the sovereignty and independency of our King and Parliament...' and deplored Rycout's memorial as 'an open encroachment on the Sovereignty of this Crown and Kingdom, the occasion of great losses... to the Company and injurious to trade of this nation'. They also denounced the 1699 Proclamations as 'injurious and prejudicial to the rights and liberties of the Company' and their execution as 'inhumane, barbarous and contrare to the law of nations and a great occasion of the loss and ruine of our said colony...' Finally, the King was asked to prevent all further encroachments by English ministers, to assure the Company of his protection, and to support reparation for its losses.<sup>957</sup>

There was also determined (but ultimately unsuccessful) resistance to voting supply for the army and the arming of 'fencible men' as an alternative.<sup>958</sup> Other unpalatable Country constitutional proposals anticipated those of the 1703-1705 parliamentary sessions. These included overtures for a place Act; a Scottish property qualification Act; an Act for Scottish diplomatic representation; an Act extending shire representation; an Act of Security; an Act anent Peace and War, and the

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<sup>954</sup> *APS*, x, pp. 201-202.

<sup>955</sup> *CSP*, Queensberry to Carstares, 9 September 1700, pp. 637-645.

<sup>956</sup> *APS*, x, pp. 272-278.

<sup>957</sup> *APS*, x, 10-17 January 1701, pp. 242-250.

<sup>958</sup> *APS*, x, pp. 268-270, Appendix, pp. 97-98.

appointment of a parliamentary commission of accounts to examine the use of funds provided by parliament since 1693.<sup>959</sup>

### Succession through union

The experience of the Scottish parliamentary sessions of 1700-1701 can only have convinced the Court group that any attempt to introduce a Scottish Act of Settlement would have precipitated a renewal of these highly obnoxious demands. Further, the experience of the English Act of Settlement confirmed the leverage which the succession issue and imminent war afforded the Country agenda. Indeed, intelligence confirmed that elements among the Scottish opposition were planning to exploit the open succession to extract concessions,<sup>960</sup> as urged by Pitmidden and Ridpath.<sup>961</sup> Moreover, this outlook was not confined to the opposition. For example, Philiphaugh advised Queensberry, 'I'm confident your grace will be far from undertaking [settling the Scottish succession]. I hope you will continue of the same opinion...that this nation should not make one step that way, before the case existed, unless England gave us good conditions as to our liberty of trading'.<sup>962</sup>

Accordingly, *in addition to* the benefits of policy alignment, union offered an attractive solution to the existential objective of aligning the Scottish succession<sup>963</sup> without conceding any weakening of the prerogative. Indeed, it was self-evident, as Nottingham argued, that union would secure the Protestant Succession in the whole Regal Union.<sup>964</sup> This was understood even before Gloucester's death: according to Basil Hamilton, it was one of Peterborough's arguments in favour of union.<sup>965</sup>

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<sup>959</sup> *APS*, x, p. 220, p. 221, p. 248, p. 257 and p. 258.

<sup>960</sup> *CSP*, J. Stewart to Carstares, 17 August 1700, p. 623.

<sup>961</sup> [Pitmidden], *Interest of Scotland*, Essay III p. 112; [Ridpath], *Discourse*, pp. 154-155.

<sup>962</sup> Riley, *Union*, p. 37, citing Buccleuth (Drumlanrig), 'Seven Letters', Murray to Queensberry, 5 August 1701.

<sup>963</sup> *CSP*, Seafeld to Carstares, 30 July 1700, p. 582.

<sup>964</sup> *HMC Marchmont*, Pringle to Marchmont, 26 February 1702 p. 154.

<sup>965</sup> NLS, MS 7021, ff. 5-6, Basil Hamilton to Tweeddale, 11 January 1700.

## Continuity between the reigns

Court group interest in union did not therefore cease with the failure of its 1700 initiative. Having dispensed with his Tory ministry and called fresh elections at the end of 1701, William recommended union to his new English parliament in February 1702. This was not, as is sometimes represented, an extempore reaction to Nottingham's speech.<sup>966</sup> As in 1700, William was waiting for a suitable opportunity,<sup>967</sup> and expressed his wishes in the strongest terms:

His Majesty... in a Message of the Twelfth of February One Thousand Six Hundred Ninety-nine,<sup>968</sup>... [did] declare His Opinion of the great Advantages which would arise to both Kingdoms, if they were more nearly and compleatly united. His Majesty is fully satisfied, that nothing can contribute more to the present and future Peace, Security, and Happiness, of England and Scotland, than a firm and entire Union between them; and He cannot but hope, that, upon a due Consideration of our present Circumstances, there will be found a general Disposition to this Union. His Majesty... is therefore extremely desirous that a Treaty for that Purpose might be set on Foot, and does in the most earnest Manner recommend this Affair to the Consideration of the House.<sup>969</sup>

William died shortly afterwards, but his union project was carried forwards by Anne. Acts were passed in both parliaments empowering her to appoint commissioners to negotiate a union and negotiations duly took place in 1702-1703. That Anne's endorsement of union was, like the war, a continuation of Williamite Court group policy was explicit in her speeches and letters to her parliaments on her accession.<sup>970</sup> It was therefore included in her affirmation of Court group policy objectives alongside the preservation of each kingdom's existing church settlements, the Protestant

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<sup>966</sup> For example, Riley, *Union*, p. 25.

<sup>967</sup> *HMC Marchmont*, Pringle to Marchmont, 26 February 1702, p. 154.

<sup>968</sup> Assuming a 25 March year-end; 1700 using 31 December.

<sup>969</sup> *LJ*, xvii, 28 February 1702, p. 51.

<sup>970</sup> Gregg, *Queen Anne*, pp. 151-152; Boyer, *Annals*, 1, p. 28.



Succession, the 'preservation of the liberties of Europe' and 'reducing the exorbitant power of France'.<sup>971</sup>

What is especially striking is the clear connection she made between Darien and union by explaining her commitment to union in her reply to the Scottish Parliament's as yet unanswered address over Darien.<sup>972</sup> Having affirmed her resolve to maintain Scottish 'Sovereignty and Independency' and to protect her prerogatives, she justified union in terms of securing policy alignment between the kingdoms, echoing William's expressed concern in 1700 to prevent a repeat of future conflicts of interest (such as that over Darien):

We shall... govern both [Scotland and England] according to their respective Laws and Liberties, and to *avoid all occasions of misunderstanding or differences betwixt them. And for this end We shall think it our happiness to establish an intire Union betwixt the two Kingdoms upon an equal and just foundation.*

She similarly recognized the damage to the Scottish economy caused by the failure of the Darien project and the need for reparations.<sup>973</sup>

The continuing attraction of closer union was not only apparent to the Court group. After the rejection of the Lords Bill in 1700, it continued to be a subject of public discourse, stimulated by the 1702 union initiative.<sup>974</sup> Although Ridpath's *Grievances* repeated the interest in union expressed in his *Enquiry*, he questioned Court group sincerity.<sup>975</sup> He acknowledged that Scotland had sought union in the past, but insisted that 'By proposing an Union we never design'd to become a province...and to resign our parliament without a proportionable share of the legislative and executive power'.<sup>976</sup> He therefore advocated a 'federal' union in which Scottish sovereignty would be

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<sup>971</sup> *LJ*, xvii, 11 March 1702, p. 68; *APS*, xi, p. 11- 12: letter dated 15 May, read 9 June 1702.

<sup>972</sup> Noted by J.R. Young, 'The Scottish Parliament and the Politics of Empire: Parliament and the Darien Project 1695-1707', *Parliaments, Estates and Representation*, 27 (2010), p. 185.

<sup>973</sup> *APS*, xi, pp. 13-14: letter dated 21 April. Emphasis added.

<sup>974</sup> For example, Blackerby Fairfax's *Discourse*; [Ridpath's] *Discourse*; and Tarbat's *Parainesis*.

<sup>975</sup> [Ridpath], *Grievances*, p. 22.

<sup>976</sup> [Ridpath], *Grievances*, p. 24.

preserved by the retention of the Scottish parliament.<sup>977</sup> Pitmidden, by contrast, argued for a complete incorporating union into ‘one Body Politick’ and free trade, with (*inter alia*) one church government and one code of law.<sup>978</sup> If the English refused, he argued that the Scots should pursue a separate path, using the leverage of parliament’s power to withhold supply.<sup>979</sup> This discourse ensured that the likely terms of an incorporating union, its potential benefits, the issues it would raise and the alternatives to it were widely understood before the commencement of negotiations in 1702 and certainly before 1706.

## Conclusion

The overriding Court group objectives in both William’s and Anne’s reigns were, firstly, the preservation of the Regal Union and the Revolution Settlement; secondly, domestic alignment over the Protestant Succession; and thirdly, resisting the ‘exorbitant power’ of France. These were reflected in Court group Scottish objectives. Clearly, securing the Protestant Succession and the preservation of prerogative rights were absolutely fundamental. Additionally, participation in great power geopolitics intensified the requirement for policy alignment within the Regal Union, principally over war and foreign policy. It also implied the avoidance of conflict with (largely English) commercial interests in order not to jeopardize the Regal Union’s financial engine for war, and hence the alignment also of commercial policy. In principle, these objectives could be achieved within the Regal Union framework, provided the Scottish government and parliament could be controlled. Its limited ability to meet these objectives was, however, demonstrated by the Darien affair.

Geopolitically, Darien represented a signal failure to align commercial policies within the Regal Union which undermined Court group diplomacy and exposed an embarrassing shortfall between its Britannic pretensions and the intrinsic limitations imposed by operating through separate English and Scottish political institutions. Domestically, it created enduring resentment in Scotland which

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<sup>977</sup> [Ridpath], *Discourse*, pp. 93-100.

<sup>978</sup> [Pitmidden], *Interest of Scotland*, Essay II, pp. 46-49.

<sup>979</sup> [Pitmidden], *Interest of Scotland*, Essay II, pp. 111-112.

compromised the Scottish ministry and undermined Court group control of the Scottish parliament, while consolidating Scottish opinion for exploiting the open Scottish succession to secure improvements to the relationship between England and Scotland.<sup>980</sup> These developments threatened core Court group Scottish objectives by threatening to weaken prerogative rights and hence increase the risk of future conflicts of interest, policy divergence and even separation. By weakening the Regal Union's internal coherence these domestic effects, too, threatened to impair its geopolitical competitiveness.

Court group union policy therefore originated as a means of enhancing its participation in great power geopolitics by improving policy alignment and coherence within the British monarchy. It also offered a neat solution to the problem of the Scottish succession without compromising prerogative powers. These attractions ensured that the union project survived its defeat in 1700 and continued into Anne's reign. This has allowed the union negotiations in 1702-1703 to be characterized as a Williamite relic, doomed to failure in the changed political landscape of Anne's reign.<sup>981</sup> This judgement is central to narratives which argue that there was no continuity of Court group policy after the failure of these negotiations and that the Union originated in the fallout from the failure of the 1704 succession initiative.<sup>982</sup> Chapter 7 considers whether this assessment is justified.

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<sup>980</sup> Below, pp. 240-242.

<sup>981</sup> Riley, *Union*, pp. 178-182.

<sup>982</sup> Described above, pp. 27-34 and pp. 146-147.

## Chapter 7 The Continuity of Court Group Policy

### Introduction

This chapter argues for the continuity of Court group union policy from its origins, discussed in the previous chapter, to its consummation in 1707. It therefore challenges the narrative of discontinuity according to which, after the failure of desultory union negotiations in 1702-1703, 'The Court, the English ministry and the Scottish ministry...concurred in trying to carry the Hanoverian succession and not a union, incorporating or federal'.<sup>983</sup> In this narrative, the failure of this succession initiative precipitated a crisis in Anglo-Scottish relations which provoked 'a signal switch in public policy, with the English ministry no longer concentrating on securing the Hanoverian Succession but giving priority to political incorporation...'<sup>984</sup> This narrative has two principal foundations: first, the characterization of the 1702-1703 union project as doomed from the outset by changed circumstances and English indifference or hostility; and second, that the succession initiative of 1704 marked a fresh start in Scottish policy from whose failure the Union emerged. This chapter questions both these interpretations.

It begins with a reassessment of the 1702-1703 negotiations using as its primary source not the official English and Scottish minutes<sup>985</sup> but the manuscript record kept by Pringle, the secretary to the Scottish commissioners.<sup>986</sup> It concludes that far from being wrecked by English indifference, the negotiations resulted in agreements over key issues which were incorporated in the Union; that far from either petering out or ending in deadlock, they were adjourned for genuine reasons with the clear intention of resuming; and that the project was terminated against Court group wishes by the Scottish parliament. The second part considers the reasons for the succession initiative and whether it was incompatible with a commitment to union. For these purposes it examines the Instructions to

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<sup>983</sup> Ferguson, *Relations*, p. 181. Note the distinction between Court and the English ministry.

<sup>984</sup> Macinnes, *Union & Empire*, p. 270. Note the conflation of the Court and English ministry.

<sup>985</sup> TNA, Secretaries of State: Papers Scotland, 'Journal', and APS, xi, Appendix, pp. 145-161.

<sup>986</sup> BL, Add Ms 61627.

the Scottish ministry in 1704-1705 and the nature of the concessions offered in return for settling the succession. It also considers Roxburgh's and Johnstone's insights into Court group thinking, and the covert Court group negotiations with Hamilton. It concludes that union and succession were not necessarily mutually exclusive and that the Court group's succession initiative was carefully structured to be compatible with union. Accordingly, there was continuity in Court group union policy from its origins in William's reign.

## The 1702-1703 negotiations

### Historiographic presentation

Riley presents the 1702-1703 initiative as a Williamite relic whose terms had been pre-arranged with the Scottish ministry. However, new elections in both kingdoms, Anne's replacement of English Whig ministers with Tories and ongoing ministerial changes in Scotland meant that the negotiations were conducted in 'an atmosphere removed from reality' which did not reflect the altered political situation in either kingdom. Accordingly, 'the conditions necessary for success had disappeared...before negotiations began'.<sup>987</sup>

This interpretation provides the context for later narratives which emphasize English indifference or hostility to both Scotland and the union project. Bowie and Whatley broadly follow Riley in treating them as a hangover from William's reign.<sup>988</sup> For Stephen, union was William's remedy for settling the Scottish succession.<sup>989</sup> Ferguson roundly attributes the failure of the negotiations to English indifference and contempt for Scotland and, like Macinnes, contrasts this with the commitment of the Scottish commissioners.<sup>990</sup> Accounts of English indifference and hostility are associated with suggestions of insincerity,<sup>991</sup> and frequently identified with Tory attitudes. For example, Whatley

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<sup>987</sup> Riley, *Union*, pp. 178-182.

<sup>988</sup> Whatley, *Scots & Union*, pp. 230-231; K. Bowie, 'Publicity, Parties and Patronage', p. 84; Macinnes, however, argues that the project was more than a gesture to William's dying wishes: *Union & Empire*, p. 94.

<sup>989</sup> Stephen, *Scottish Presbyterians*, p. 17.

<sup>990</sup> Macinnes, *Union & Empire*, p. 94; Ferguson, *Relations*, pp. 201-202, p. 206.

<sup>991</sup> Stephen, *Scottish Presbyterians*, p. 18.

describes how ‘the dislike, contempt even of English Tories for the Scots was palpable as was the growing disinterest in the whole union enterprise to the extent that the Queen was forced to reduce the quorum from thirteen to seven’.<sup>992</sup>

Most narratives also follow Riley in attributing the project’s collapse to disagreement over Scottish proposals regarding the Africa Company.<sup>993</sup> For example, Whatley asserts that the ‘[Africa Company] was the rock on which the negotiations finally foundered’, a view shared by Stephen.<sup>994</sup> Macinnes specifies that it was the demand for £200,000 compensation and the continuation of the Company’s privileges that caused the English to ‘walk away’ from the negotiations.<sup>995</sup> Speck has deadlock over the Africa Company causing the talks to be adjourned to give the two sides ‘breathing space’.<sup>996</sup>

The view that the project collapsed because it was not seriously undertaken by an English Tory ministry is longstanding. Defoe dismissed it as a Tory sham which would have foundered on differences over the church settlement had it not collapsed earlier. It was ‘much kinder’, he concluded, ‘to suppose these gentlemen never designed any union at all’ since if they did, ‘it must reflect either upon the understanding or the integrity of the persons concerned’.<sup>997</sup> In the Lords’ debates over the Scottish Act of Security, Wharton alleged that the Court group’s Scottish difficulties were ‘in a great measure to be attributed to the putting the late Treaty of Union into wrong hands’. He reassured an indignant Nottingham and Rochester that he intended no reflection on their conduct, ‘having nobody in’s eye but those that were either dead or half-dead’, a reference to the deceased Musgrave and the dying Seymour.<sup>998</sup> Whatever the accuracy of Wharton’s jibe,<sup>999</sup> there

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<sup>992</sup> Whatley, ‘Issues Facing Scotland’, p. 5.

<sup>993</sup> Riley, *Union*, p. 182.

<sup>994</sup> Whatley, ‘Issues facing Scotland’, p. 6; Stephen, *Scottish Presbyterians*, p. 18.

<sup>995</sup> Macinnes, ‘The Treaty of Union’, p. 54; *Union & Empire*, p. 95.

<sup>996</sup> Speck, *Birth of Britain*, p. 44.

<sup>997</sup> Defoe, *History*, pp. 76-78.

<sup>998</sup> *Nicolson*, 11 December 1704, p. 249.

<sup>999</sup> Seymour was not in fact a commissioner: *APS*, xi, Appendix, p. 146.

was clearly an emerging Whig narrative which associated the 1702-1703 negotiations with Tory failure and the Union with contrasting Whig success.

### **English indifference?**

The narrative of English indifference is based on the repeated failure of the English commissioners to constitute a quorum.<sup>1000</sup> The bare facts appear conclusive. The negotiations were due to begin on 27 October, but were delayed until 10 November.<sup>1001</sup> After the completion of opening formalities, the English raised quibbles over the Scottish commission and failed to make quorum at the next meeting on 16 November.<sup>1002</sup> After an exhortatory letter from the Queen, the commissioners agreed preliminary articles to govern the conduct of the negotiations. However, although Heads of Terms were exchanged on 20 November and 'considerations' on them on 25 and 30 November, the English failed successively on 1 December and 4 December to make quorum to discuss the Scots' insistence on a communication of trade in return for aligning the succession. Although quorate on 5 December, the English again struggled to make quorum on 9 December when the Scots presented their six key trade demands, keeping them waiting three hours.<sup>1003</sup> The English reply on 16 December insisted on the need for a common excise and on the value of the Plantations trade. The Scots therefore instructed their managers for the communication of trade conference on 19 December to demand:

a plain and categorical answer to the proposition that upon Union of the two kingdoms under one monarchie, in the same line of succession, and the representation of both in one parliament, the trade between the two kingdoms ought to be declared the right of the subjects of either kingdom upon the same limitations and regulations...and that the burthen and impositions upon export and import shall be the same to all subjects...<sup>1004</sup>

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<sup>1000</sup> Macinnes, *Union & Empire*, p. 94. Ferguson, *Relations*, p. 201.

<sup>1001</sup> Macinnes attributes the delay to the English (p. 94). In fact, not all the Scots had arrived: BL, Add Ms 61627, p. 2; BL, Add Ms 6420, f. 17.

<sup>1002</sup> The required quorum was 13, which the Scottish minutes actually show present while recording Wright's request for an adjournment because of a quorum failure.

<sup>1003</sup> BL, Add Ms 61627, general meeting, 9 December, pp. 51-53.

<sup>1004</sup> BL, Add MS 61627, Scottish meeting, 18 December, pp. 66-68.

At this conference, the English agreed in principle that Scotland would have access to the Plantation trade, but reserved their position on the linked issues of pre-union indebtedness and the common excise.<sup>1005</sup> This agreement was not, however, formalized until 2 January because the English were inquorate on 23 December and 28 December. The conference on the common excise did not take place until 12 January, owing to successive English quorum failures on 4, 8 and 9 January.

Consideration of Scottish proposals for a limited exemption from the common excise was then delayed until 18 January because the English were again inquorate on 15 January; and the uncompromising English reply was delayed by another quorum failure on 21 January. On 23 January (just two days before Nottingham advised that negotiations would be adjourned) the Queen issued a new English commission reducing the quorum to seven to facilitate their participation.<sup>1006</sup>

It is easy to infer from this outline that English treatment of the Scottish commissioners bordered on contempt. Indeed, it so incensed the Scots that they moved that Queensberry and Seafield should complain to the Queen, although it is not clear whether this was done.<sup>1007</sup> However, the English themselves were highly embarrassed by their failures and ensured that high status delegations delivered their excuses. For example, on 21 January Pembroke, Normanby and Nottingham came to apologize and confess that 'they were now come much ashamed'.<sup>1008</sup> On 15 January it was Carlisle who came to apologize; on 8 January the Archbishop of Canterbury and two others; on 4 January Burlington and Rochester; and on 28 December it was Godolphin himself, accompanied by Nottingham.

Furthermore, the English quorum failures can be explained on grounds other than hostility and indifference. The 1702-1703 session of the English parliament sat simultaneously with the union negotiations. It was characterized by a full Court group agenda; parliamentary scrutiny of public

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<sup>1005</sup> As explained on 16 December, virtually all English excises were appropriated to servicing English debt: BL, Add Ms 61627, pp. 63-64.

<sup>1006</sup> BL, Add Ms 61627, pp. 129-132.

<sup>1007</sup> BL, Add Ms 61627, Scottish meeting 9 January, p. 111.

<sup>1008</sup> BL, Add Ms 61627, Scottish meeting 21 January, pp. 122-123; APS, xi, Appendix p. 156.



spending, diplomacy and the conduct of the war; and partisan inter-cameral disputes which threatened to disrupt the provision of war finance.<sup>1009</sup> Most of the English commissioners had ministerial or party commitments, so had extensive, competing demands on their time. Indeed, Court group weakness in the Lords meant that it could not allow its supporters to attend union negotiations instead of important Lords debates. Wright was not merely making excuses when he explained to the Queen that the pressure of her business had prevented the English commissioners formally responding to Scottish proposals.<sup>1010</sup>

For example, the Land Tax Bill, the cornerstone of funding for the next year's campaign, was eventually sent to the Lords on 23 December (when it was passed and given the royal assent). The same day had been scheduled for a union commissioners' meeting, which was naturally adjourned. Far more controversial was the Occasional Conformity Bill, to which the English commissioners Nottingham, Rochester, Normanby, Jersey and the Archbishop of York were deeply committed. It was received by the Lords on 2 December and hotly debated on 3 and 4 December in a full house,<sup>1011</sup> so when Nottingham explained to the Scots on 4 December that the English were not quorate because of a long sitting in the Lords, this was no more than the truth.<sup>1012</sup> On 9 December, the Lords passed a resolution against tacking after returning the heavily amended Occasional Bill to the Commons, which duly debated the Lords' changes.<sup>1013</sup> This business inevitably affected English attendance at the commissioners meeting scheduled for the same day. Godolphin, hitherto a consistent attendee, was absent as were Marlborough, Wright, Pembroke, and Normanby (who had all attended on 5 December).<sup>1014</sup> The Lords' amendments provoked a protracted inter-cameral dispute which conferences on 9 and 16 January failed to resolve but which substantially explain the English quorum failures on 8, 9 and 15 January.<sup>1015</sup> Significantly, English attendance at the

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<sup>1009</sup> *HMC Portland*, iv, Godolphin to Harley, 10 December 1702 and 14 January 1703, p. 53 and p. 57.

<sup>1010</sup> BL, Add Ms 61627, meeting 14 December, p. 60.

<sup>1011</sup> *LJ*, xvii, pp. 178-181.

<sup>1012</sup> BL, Add Ms 61627, p. 42.

<sup>1013</sup> *LJ*, xvii, pp. 184-186; *CJ*, xiv, p. 76.

<sup>1014</sup> Compare English attendance on 5 December and 9 December: APS, xi, Appendix, pp. 151-152.

<sup>1015</sup> APS, xi, Appendix, pp. 155-156.

commissioners' meeting on 1 February, which coincided with the last Occasional Conformity conference, fell sharply to the requisite minimum.

Other controversial Court group business distracted the English commissioners. For example, the Dutch request for an 'Augmentation' of the English commitment to the Grand Alliance disrupted business in January, since the Commons refused to provide the necessary funding unless the Dutch ceased their trade with France. It necessitated a Privy Council meeting on 8 January, requiring the cancellation of the commissioners meeting that day, and contributed to the quorum failure on 4 January.

The English commissioners were also distracted by partisan business. For example, the Tory-dominated Commons generated a place bill, a property qualification bill, a bill extending the time limit for taking the Abjuration Act oath, and a bill for resuming Irish land grants. These were all either delayed, amended or rejected by the Lords. The Commons' Commissioners of Accounts sought to censure Halifax's conduct as Auditor of the Exchequer, while the Whigs in the Lords initiated an investigation into the failure of Tory commanders to capture Cadiz, which provoked intense inter-cameral disputes and a series of rival addresses to the Queen.

Illness and cultural factors also explain some English absences. For example, Godolphin was absent from all but the last meeting in 1703 because of crippling back pain.<sup>1016</sup> Scottish presbyterians might not keep Christmas, but the English certainly did. The absences on 28 December were attributed by Godolphin to 'the season of Christmas', and when Burlington and Rochester came to apologize on 4 January, they sought to defer the next meeting till after Twelfth Night.<sup>1017</sup>

English quorum failures, therefore, arose chiefly because the negotiations coincided with the sitting of the English parliament and Christmas. Evidently, the English quorum was set too high, taking into account the small core of senior ministers and their manifold commitments. All this suggests

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<sup>1016</sup> Harris, *General in Winter*, p. 113.

<sup>1017</sup> BL, Add Ms 61627, Scottish meetings of 28 December and 4 January, pp. 73-74 and pp. 109-110.

inexperience and poor organization on the part of the English, rather than bad faith and indifference. That these problems were recognized by contemporaries is confirmed by a Scottish memorial on the selection of Scottish commissioners in 1706. This observed that in 1702-1703, 'we found by experience that during the sitting of the parliament of England, the English could not well attend upon or mind the Treaty...'<sup>1018</sup> The 1706 negotiations were therefore carefully timed to coincide neither with sittings of the English parliament nor Christmas; the English quorum was set appropriately; and the burden of detailed negotiation fell on the Junto, whose members held no ministerial office. Clearly, important practical lessons had been learned from the experience of 1702-1703.

### **Court group strategy**

Recognizing the need for parliamentary ratification in both kingdoms, the Court group sought to incentivize both parliaments to support union. For the Scots, the primary incentive was to be trade. However, incentivizing the English parliament, or more specifically the Commons, whose endorsement of trade concessions for Scotland was necessary, was perceived to be more difficult. Although the political climate had changed since the rejection of the 1700 union bill, with a Tory-dominated ministry now in office, the Commons was still the likely focus of opposition.<sup>1019</sup>

The Court group's solution was to make securing the Protestant Succession in Scotland the prime incentive for the English parliament. It therefore held out the prospect of the separation of the two kingdoms and the consequent threat to English security and the Revolution settlement if the Scottish succession were not settled by union. To this end it sought to dilute or avoid any Scottish equivalent of the English Abjuration Act which (taken with the Claim of Right and Succession Act) might indirectly deliver the Protestant Succession in Scotland. This strategy was certainly pursued in

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<sup>1018</sup> BL, Add MS 6420, f. 17, Memorial, 4 December 1705.

<sup>1019</sup> *HMC Marchmont*, Seafield to Marchmont, 3 March 1702 p. 155.

1703,<sup>1020</sup> but seems to have originated in 1702, when Queensberry blocked Marchmont's attempt to pass a Scottish abjuration Act by an abrupt adjournment.<sup>1021</sup>

The Court group also understood that any union had to accommodate commercial interests represented in the English parliament. As explained in Chapter 6,<sup>1022</sup> not only did this mean that any union involving a 'communication of trade' must be a legislative union, but also that it would be necessary to establish a common excise (referred to by Scottish contemporaries as duties or impositions on 'home consumpt') to prevent Scottish underselling. This issue was central to the 1702-1703 negotiations.

These considerations explain the core features of the bargain at the heart of the union project.<sup>1023</sup>

The Protestant Succession in Scotland would be secured by the creation of a single kingdom with a single rule of succession, which would deliver free trade with England and its Plantations within a legislative union. The Court group, meanwhile, would achieve its ambition of strengthening the internal alignment and cohesion of the British monarchy, thereby enhancing its geopolitical effectiveness

The Court group's commitment to union was exemplified by the Queen's personal interventions, by letter on 16 November and in person on 14 December. On the latter occasion, Godolphin took care that she could hear what was being said by the secretaries: her attendance was no mere formality,

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<sup>1020</sup> NRS, GD 248 571/2 f. 5, Queensberry to Seafield, March 1703.

<sup>1021</sup> CSP, Philiphaugh to Carstares, 4 July 1702, pp. 714-716; and BL, Add Ms 6420 f. 7, Pringle to Queensberry, 2 July 1702. Riley rejects this interpretation, arguing that on Stair's advice Queensberry's purpose was to attract episcopalian support to counter 'Presbyterian' resistance to his domination of the Scottish ministry: P.W.J. Riley, 'The Abjuration Vote of 27 June 1702 in the Scottish Parliament', *Parliamentary History*, 2 (1983), pp. 175-190. However, while this might explain Queensberry's own behaviour, contemporaries including Annandale, Haversham, Lockhart and Clerk attributed the failure of abjuration in 1702 to the 'Court': *HMC Laing*, ii, Annandale to Godolphin, 9 May 1705, pp. 110-111; *Jerviswood*, Johnstone to Baillie, 21 December 1704, p.26; GD 18/ 6080, p. 17 and Clerk's marginal note. This was also Riley's earlier view: 'Union as an episode in English Politics', pp. 502-503. It would also be consistent with simultaneous Tory efforts to water down the English Abjuration Act.

<sup>1022</sup> Above, pp

. 185-186.

<sup>1023</sup> Above, p. 97.

nor did she depart abruptly, as suggested by the official Scottish minutes.<sup>1024</sup> Her attendance prompted an English reply to the Scots' six proposals of 9 December for a mutual communication of trade, and the constructive conference of 19 December where Scottish access to the Plantation trade was agreed in principle. All the Triumvirs were commissioners, although Harley attended only infrequently. Of the Duumvirs, Godolphin consistently attended commissioners' meetings in November-December 1702, being present at 8 of the 12 quorate meetings in that period and at least 2 of the 4 inquorate ones. He was absent from the opening meeting on 10 November owing to a cold<sup>1025</sup> and from the meeting on 9 December owing to the pressure of other business, as discussed above.<sup>1026</sup> His absence after Christmas from all but the final meeting was explained by ill health.<sup>1027</sup> Marlborough attended 5 of the 8 quorate 1702 meetings held after his return from campaign despite important personal business in parliament concerning his proposed life grant.

However, management of detailed negotiations was left to prominent Tories, notably Nottingham, who worked closely with the Scottish Secretary, Tarbat, and Rochester. Although the Tory attempt to carry the Court group's Scottish measures had disastrous consequences,<sup>1028</sup> it was not insincere. Prejudice against Scotland was not the monopoly of one party, and Seymour was *not* a commissioner. It is possible that Scottish commissioners privately encountered High Tory English sentiment for the restoration of episcopacy<sup>1029</sup> which generated the rumours reported by Johnstone,<sup>1030</sup> but there is no mention of them in Pringles' minutes. Changes to Church government were never on the agenda (indeed they were excluded)<sup>1031</sup> and as Johnstone conceded, Nottingham and Rochester completely understood that they were unrealistic.

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<sup>1024</sup> Compare BL, Add Ms 61627, 14 December 1702, p. 60, with APS, xi, Appendix, p. 153.

<sup>1025</sup> *HMC Portland*, iv, Godolphin to Harley, 10 November 1702, pp. 50-51.

<sup>1026</sup> Above, p. 209.

<sup>1027</sup> Harris, *General in Winter*, p. 113.

<sup>1028</sup> Below, p. 243 and p. 246.

<sup>1029</sup> Such as the letter to Sir John Pakington referred to in [Ridpath], *Discourse*, p. 77.

<sup>1030</sup> *Jerviswood*, Johnstone to Baillie, 13 February 1703, p. 11.

<sup>1031</sup> As discussed by the Scottish commissioners on 3 November 1702: BL, Add Ms 61627, pp. 5-6.

In fact, Nottingham and Rochester (who was on friendly terms with Queensberry) provided (with the Court Tory, Pembroke) the core English presence at the commissioners' meetings after 12 January in the course of which agreement was reached on a temporary Scottish exemption from the common excise.<sup>1032</sup> Nottingham, like Pembroke, was a consistent attendee, being present at 21 of the 22 quorate meetings, and served as an English manager at the conferences of 19 December and 12 January. He worked hard with Tarbat to progress the negotiations, participating in informal meetings with the Scots, for example regarding the deferral of the opening meeting,<sup>1033</sup> and on 25 November, over the preliminaries.<sup>1034</sup> When the issue of the common excise arose, Tarbat sent Nottingham a paper explaining why this threatened to derail the whole project.<sup>1035</sup> It was also Nottingham who warned Tarbat that the Queen had decided to adjourn proceedings, and suggested constructively that the Scots should set out their outstanding issues so that both parliaments could see what remained to be agreed.<sup>1036</sup> Other informal contacts took place. For example, the Scottish answer to English comments on a communication of trade was supplied informally to some of the English commissioners on 4 December, so that they had their reply ready on 5 December;<sup>1037</sup> and meetings between Seafeld and the English allowed him to anticipate English arguments at the 2 January meeting.<sup>1038</sup> Such contacts scarcely suggest English, or indeed Tory, 'indifference'.

### **Genuine negotiations and difficult issues**

Riley's surmise that the basic terms of union had been pre-agreed with the Scottish ministry is probably correct, Scottish ministerial views having been canvassed in 1699.<sup>1039</sup> As Anne told the commissioners in November 1702, its heads were 'so obvious'.<sup>1040</sup> However, this does not mean that

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<sup>1032</sup> Supported by the two Archbishops, the Whig Scarborough, Charles Godolphin (Chairman of the Board of Customs) and two lawyers, Sir John Cooke and Dr. Waller.

<sup>1033</sup> BL, Add Ms 61627, 26 October 1702, p. 1.

<sup>1034</sup> BL, Add Ms 29588, f. 363, Seafeld to Nottingham, 25 November 1702.

<sup>1035</sup> BL, Add Ms 29588, f. 379 and ff. 375-376, Tarbat to Nottingham, 21 December enclosing Tarbat's paper.

<sup>1036</sup> BL, Add Ms 61627, pre-meeting 25 January, p. 137.

<sup>1037</sup> BL, Add Ms 61627, general meeting, 5 December, pp. 43-44.

<sup>1038</sup> BL, Add Ms 61627, pre-meeting 1 January, pp. 85-86.

<sup>1039</sup> *Marchmont*, iii, Marchmont to Pringle, 23 December 1699, p. 199. See above, p. 188.

<sup>1040</sup> BL, Add Ms 61627, p. 27.

robust negotiations were unnecessary, particularly over indirect taxation and representation in the single legislature. The first issue was the most controversial in 1702-1703 and the second in 1706.

Both kingdoms' commissioners recognized the serious issues at stake, the implications for their personal reputations and the need to consider the reactions of their respective parliaments.

Pringle's minutes support Macinnes' and Ferguson's view that the Scottish commissioners were committed to the project and determined to secure generous trade concessions. Riley's contrasting observation that they were 'far less demanding than in 1706'<sup>1041</sup> seems to be based on a misunderstanding of Scottish proposals on 18 January 1703 for an equivalent. He represents the Scots as seeking a lump sum of a mere £10,000 in return for assuming English excises appropriated to servicing pre-union English debt. However, the minute clearly shows that they sought an uncapped *yearly* payment of £10,000 out of expected post-union incremental Scottish revenues in return for the extension of English *customs* duties to Scotland.<sup>1042</sup> The proposal therefore anticipated the 'rising equivalent' in the Union treaty and not the fixed equivalent of £398,085 10s. Moreover, in 1707, both equivalents were in respect of customs *and* excises, and not solely customs.

The basic bargain underlying the project was implicit in the exchange of Heads on 20 November. The English proposed only two, concerning the succession, without referencing trade. These were that the two kingdoms be united into one kingdom, whose succession should follow the English Act of Settlement. The Scots proposed three, essentially demanding trade concessions, without confirming the Hanoverian succession. These were that there should be one kingdom, one parliament and a mutual communication of trade.<sup>1043</sup> That the Scots regarded free trade with England and its Plantations as the *quid pro quo* for alignment of the succession and legislative union was explicit in their discussions over their reply to the English Heads. A committee appointed to respond consider this reply drafted a proviso making Scottish agreement over the succession conditional on 'a mutual

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<sup>1041</sup> Riley, *Union*, p. 180.

<sup>1042</sup> *APS*, xi, Appendix, p. 156.

<sup>1043</sup> BL, Add Ms 61627, general meeting 20 November, pp. 30-32; TNA, Secretaries of State, papers Scotland, 'Journal', p. 16; *APS*, xi, Appendix, p. 149.

communication of trade, commerce and other privileges between the two kingdoms without disparitie or distinction...’ When it was decided ‘after much dispute’ *not* to include this in the Scottish response, the provosts of Dundee, Glasgow and Aberdeen protested, ‘alleging that they would not have given their consent to the other part of the answer but in hopes of having the provisional clause accepted about the communication of trade.’<sup>1044</sup> Instead, Queensberry persuaded them to await the English answer to the Scottish Heads. When the English failed to respond to the trade Head, Queensberry refused to allow proceedings to be minuted until receiving a satisfactory reply.<sup>1045</sup>

The Scots continued to drive the trade agenda. They proposed a joint committee to discuss and agree points arising in order to expedite proceedings.<sup>1046</sup> This became the ‘Trade Committee’ which discussed the detailed operation of a communication of trade. As this committee did not reach any conclusions, at the general meeting on 9 December the Scots proposed six articles ‘as near as could be got to what had been discussed’ which formed the basis for subsequent negotiations. Articles 1-2 called for free trade between the two kingdoms under a common customs regime. Article 3 sought freedom of trade under common regulations to and from the English Plantations, while Article 4 called for the rescission of the Navigation Acts and legislation in either kingdom inconsistent with Articles 1-3. Article 5 demanded that neither kingdom should be burdened with the pre-union debts of the other, noting that the common customs regime proposed in Article 2 should either exclude duties appropriated to the payment of pre-union English debts, or (if this were impracticable) that Scotland should be compensated with an equivalent. Finally, Article 6 reserved for future consideration the rights of the Africa Company and of equivalent English companies.<sup>1047</sup>

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<sup>1044</sup> BL, Add Ms 61627, Scottish meetings 23 and 24 November 1702, pp. 32-34.

<sup>1045</sup> BL, Add MS 61627, general meeting 25 November, p. 37.

<sup>1046</sup> BL, Add Ms 61627, morning pre-meeting 4 December p. 41; general meeting 5 December p. 47; APS, xi, Appendix, pp. 151-152.

<sup>1047</sup> BL, Add MS 61627, various meetings, 9 December, pp. 50-54; APS, xi, Appendix, p. 152.



Just as conceding the succession was politically sensitive for the Scots, trade concessions were sensitive for the English. The English were not, however, unconstructive. For example, on 5 December they had already prepared an answer on the workings of a communication of trade and readily agreed to establishing the joint trade committee. Much has been made of Godolphin's insistence in the 16 December English 'Considerations' on the Scots' six articles that 'the Plantations are the property of English men and that this trade is of so great a consequence and so beneficial as not to be communicated as is proposed till all other particulars, which shall be thought necessary to this Union be adjusted.'<sup>1048</sup> However, at the 19 December conference, Godolphin explained that this 'had been offered to make it clear to the Scots what a valuable thing [the English] parted with'.<sup>1049</sup> In short, he had made a negotiating point: there was no reneging on pre-agreed terms and the English agreed that the Plantations would be included in a communication of trade, which was formally confirmed on 2 January. This was possible because the English pragmatically reserved consideration of the controversial subject of the common excise to a conference, despite the objections of Carlisle and Burlington,<sup>1050</sup> and dropped their proposal for the exclusion of sheepskins and wool from the freedom of trade between the kingdoms.

The English were, however, adamant that a 'full communication of trade' necessitated a common excise, and that it should be discussed under the head of trade, not taxation.<sup>1051</sup> This, and not antipathy to the principle, was behind their reluctance to agree without qualification to the Scottish demand for free trade in return for settling the succession. The respective positions were debated at the 12 January conference. The Scots demanded exemption on the grounds that a common excise

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<sup>1048</sup> BL, Add Ms 61627, general meeting, 16 December, p. 63; *APS*, xi, Appendix, p. 153.

<sup>1049</sup> BL, Add Ms 61627, conference of 19 December, p. 70.

<sup>1050</sup> BL, Add Ms 61627, general meeting, 2 January, p. 108; *APS*, xi, Appendix, p. 155.

<sup>1051</sup> For English determination to consider excises under the 'trade' head, see BL, Add Ms 61627, Trade Committee meetings, 7 December, pp. 48-49 and 21 December pp. 71-72; for English insistence on the 'immediate connection' between duties on domestic consumption and trade, see Scottish pre-meeting, 18 December, p. 67; and for the importance attached by the English to the common excise, see general meeting, 16 December pp. 62-64.

would impose an unsustainable burden on Scotland.<sup>1052</sup> The English rejected this as ‘impractical and unprecedented’, while hinting that a *temporary* exemption would be acceptable,<sup>1053</sup> and that any post-union increase in Scottish revenues arising as a result of higher duties need not be applied to servicing English debt, depending on the overall Scottish contribution to the revenues of the new kingdom.<sup>1054</sup>

The Scots soon realized that the English would not concede a full exemption,<sup>1055</sup> so fought hard for temporary, transitional reliefs, proposing an exemption from English excises pending the repayment of English pre-union debt. The English rejected this, observing that since virtually all English excises were hypothecated to such debt<sup>1056</sup> (most of which were only repayable in 99 years’ time) it would defer indefinitely putting trade on an equal foot.<sup>1057</sup> However, they offered as an alternative a period of exemption which would be determined by the respective parliaments.<sup>1058</sup> This formed the basis of agreement on 30 January, despite the English being ‘verie apprehensive it might be ill taken that they had agreed that there should be a time allowed to Scotland for exemption from duties on home consumption’.<sup>1059</sup> The common excise, and neither the Plantations trade nor compensation for the Africa Company, was therefore the key ‘red line’ for the English commissioners in 1702-1703.

Other Scottish proposals dealt with Scotland’s share of land tax, and a rising equivalent in return for accepting a common customs regime. These, together with the corresponding English ‘considerations’, were debated at Scottish insistence on 1 February,<sup>1060</sup> and remained unresolved

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<sup>1052</sup> For Scottish objections, see BL, Add Ms 29588, f. 379 and ff. 375-376, Tarbat to Nottingham, 21 December and enclosure; for their reaction to the English position, see BL, Add Ms 61627, 30 December, pp. 76-78 and for Hew Dalrymple’s 2 January memorial on the equality of taxation, see pp. 88-105.

<sup>1053</sup> BL, Add Ms 61627, 12 January conference, pp. 112-114.

<sup>1054</sup> BL, Add Ms 61627, general meeting 16 December, p. 64.

<sup>1055</sup> BL, Add Ms 61627, pre-meeting, 1 January p. 86.

<sup>1056</sup> BL, Add Ms 61627, general meeting 16 December, pp. 63-64.

<sup>1057</sup> BL, Add Ms 61627, general meeting 23 January, p. 134; APS, xi, Appendix p. 157.

<sup>1058</sup> BL, Add Ms 61627, general meeting 27 January, pp. 150-151.

<sup>1059</sup> Normanby exited ‘professing against it’: BL, Add Ms 61627, general meeting 30 January, pp. 157-158; TNA, Secretaries of State, Papers Scotland, ‘Journal’, p. 49; APS, xi, Appendix, p. 160.

<sup>1060</sup> BL, Add Ms 61627, general meeting 1 February, pp. 161-162.

when the negotiations were adjourned.<sup>1061</sup> The Scots also sought to progress other key issues, establishing a committee to draft proposals on judicatures, church government and the rights of peers. These were debated with the other Scottish commissioners on 21-23 January when seven draft articles were finalized,<sup>1062</sup> although they were never formally offered to the English commissioners.

### **No agreement?**

The preliminaries provided that nothing should be considered agreed until the full terms of union had been agreed, and that the whole was subject to parliamentary ratification. In this sense, nothing was agreed in 1702-1703. However, substantive agreement was in fact reached on several important points, which were recorded in the minutes of the general meetings of 5 December, 2 January, 30 January and 3 February.

On 5 December it was agreed that the two kingdoms would be united into a single kingdom whose succession would follow the English Act of Settlement, and which would be represented in a single parliament, in return for a mutual communication of trade and other privileges, whose terms remained to be determined.<sup>1063</sup> On 2 January, subject to the resolution of the dispute over the common excise, the terms of this mutual communication of trade were agreed, confirming four of the six Scottish demands of 9 December.<sup>1064</sup> These included access to the Plantations trade and modification of the Navigation Acts. The dispute over the common excise was substantially resolved on 30 January when the English conceded that the Scots should have a period of exemption from the common excise (fudged by referring it to the respective parliaments) and that neither kingdom should bear the pre-union debts of the other.<sup>1065</sup> Finally, the final meeting on 3 February set out a

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<sup>1061</sup> APS, xi, Appendix, p. 160.

<sup>1062</sup> BL, Add Ms 61627, pre-meeting 12 January p. 111; committee meetings pp. 114-117, p. 120; committee discussions with the commissioners, p. 122; for the draft articles, see 23 January pre-meeting, pp. 124-128.

<sup>1063</sup> APS, xi, Appendix, p. 151.

<sup>1064</sup> APS, xi, Appendix, p. 155.

<sup>1065</sup> APS, xi, Appendix, p. 160.

full agenda for the resumption of negotiations in October, including parliamentary representation, 'the Affairs of the Church' and jurisdictional issues.<sup>1066</sup>

These agreements represented a substantial achievement involving the resolution of very difficult issues. With the benefit of hindsight, the apparent expectation of concluding the negotiations before the rising of the English parliament in Spring 1703<sup>1067</sup> was hopelessly unrealistic. However, as the Queen justly observed, much more had been accomplished than in any previous negotiations. This positive assessment was shared by contemporaries. Nicolson records that although Sir James Stewart of Bute complained of slow progress on 23 December, on 29 January Stair and the Lord President told him that they had 'finished their debates and come to agreement on all the Heads whereon they had the power to Treat...and seemed for a happy Conclusion of the Matter.'<sup>1068</sup> Godolphin's retrospective view was that 'the most fundamental points of [union] were adjusted...and the want of time was the greatest obstruction to the perfecting of it.'<sup>1069</sup> Harley, too, represented the success of the negotiations to Carstares.<sup>1070</sup>

These agreements provided the foundations of the Union. Free trade between the kingdoms, including the Plantations, was exchanged for the alignment of the Scottish succession through the creation of a single kingdom with a single legislature and a common system of customs and excise. On the basis that neither kingdom should bear the pre-union debt of the other, transitional provisions compensated Scotland for the extension to it of English taxes which serviced pre-Union English debt. Although the expedient of referring the period of exemption from the common excise to the respective parliaments was not adopted, the combination of exemptions and equivalents discussed in 1702-1703 was a feature of Articles 7-8 and 10-15 of the Treaty. The Union also incorporated wholesale proposals made in 1702-1703. For example, Article 9's provision that

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<sup>1066</sup> *APS*, xi, Appendix, p. 161.

<sup>1067</sup> BL, Add Ms 61627, pre-meeting, 25 January p. 137 for Nottingham's briefing.

<sup>1068</sup> *Nicolson*, 29 January, pp. 190-191.

<sup>1069</sup> *HMC, Atholl & Hume*, Godolphin to Atholl, 9 August 1703, p. 61.

<sup>1070</sup> *CSP*, Harley to Carstares, 19 August 1703, p. 721.

£48,000 was the 'just equivalent' of the English 4s in the pound land tax was proposed by the Scots on 18 January 1703. This and Article 22 also reflected acceptance of the Scottish position in 1702-1703 that Scotland's representation in the union parliament should not be based on its share of land tax. The seven draft articles of 23 January concerning the survival of Scottish judicatures, the protection of Presbyterian church government and the rights of Scottish peers, although never presented to the English, were reflected in the Union's Articles 20 and 23, and in the Kirk Act.

### **The Africa Company and the adjournment.**

The only Scottish proposal of 9 December completely unresolved at the time of the adjournment was the treatment of the Africa Company. Whether this caused the negotiations to 'founder' is considered below.

On 14-15 January, the Scots debated asking for a yearly payment of £10,000 capped at £200,000 to buy out the Company's shareholders. This was *in addition to* the £10,000 uncapped yearly payment demanded as an equivalent for the extension of English customs duties to Scotland. They decided that better tactics would be to demand the retention of the Company's privileges, and if (as expected) the English should refuse, only then to propose an equivalent. This demand was not included in their 18 January proposals,<sup>1071</sup> but was ultimately slipped in by Queensberry at the end of the commissioners' meeting on 27 January.<sup>1072</sup> As agreed on 14-15 January, it was made not in the expectation that it would be accepted but 'to draw from the English the offer of some equivalent which they thought would come more properly from that side of board'.<sup>1073</sup>

The English 'flat denial' of 28 January was therefore anticipated.<sup>1074</sup> In response, the Scots hinted that they were looking for a lump sum compensation payment: referring to the Company's capital

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<sup>1071</sup> BL, Add Ms 61627, Scottish committee meetings 14 and 15 January, Scottish pre-meeting, 15 January, pp. 114-117.

<sup>1072</sup> Pembroke had proposed adjourning because it was late.

<sup>1073</sup> BL, Add Ms 61627, pre-meeting 27 January p. 149.

<sup>1074</sup> BL, Add Ms 61627, pre-meeting 1 February, pp. 159-160.

stock of £200,000, and the Scottish parliamentary address over Darien,<sup>1075</sup> they suggested that the English could not expect the Company's privileges to be surrendered without compensation at the public expense.<sup>1076</sup>

The failure of the English to reply was attributable not to disagreement in principle, but rather to the decision to adjourn. This was taken on or before 25 January, when Nottingham privately advised Tarbat that 'there was no hopes the treatie could be brought to anie firm conclusion at this time'.<sup>1077</sup> This was *before* Queensberry made the Africa Company proposals on 27 January. Indeed, it was the prospect of adjournment that motivated Queensberry, because the Scots wanted to put down a marker in anticipation of the resumption of negotiations. When the English rejected the Scottish proposals, the Scots insisted on having the last word lest failure to do so 'might be seen as acquiescence'. As the Scottish parliament was expected to review the minutes, it was important 'to show their dislike of the answer & that they would not so easily desert the rights of that Company'.<sup>1078</sup>

It is therefore clear that disagreement over the Africa Company was *not* responsible for the adjournment. Further, the official reasons given for adjournment were more than merely 'plausible.' It was obvious that difficult issues remained undebated (such as ecclesiastical and jurisdictional matters, and parliamentary representation) and that there were many 'weighty affairs' requiring the attention of Scottish ministers, including the imminent meetings of the Kirk's General Assembly and the new Scottish parliament.<sup>1079</sup> Meanwhile, there remained a demanding agenda in the English parliament: the disputes over the Occasional Conformity Bill and the controversial Bill amending the Abjuration Act were still unresolved. Finally, the campaigning season would begin soon, recalling Marlborough to the continent. As Johnstone told Baillie, 'The truth is, their own business leaves no

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<sup>1075</sup> Above, p. 198.

<sup>1076</sup> BL, Add Ms 61627, pre-meeting, 1 February, pp.160-161; APS, xi, Appendix, pp. 160-161.

<sup>1077</sup> BL, Add Ms 61627, pre-meeting, 25 January p. 137.

<sup>1078</sup> BL, Add Ms 61627, pre-meeting, 1 February pp. 159-160.

<sup>1079</sup> BL, Add Ms 61627, pre-meeting, 3 February, pp. 162-163.

room for your's'.<sup>1080</sup> Seafield was therefore confirming the obvious on 1 February when he conveyed the Queen's formal announcement that it would not be possible to present an agreement to the two parliaments.<sup>1081</sup>

However, this does not mean that the Court group abandoned union. In the Queen's words:

And tho' there be some very important matters still remaining to be adjusted... Yet the great progress you have already made beyond what has been done in any former Treaties gives us good hopes that at your next meeting this will be brought by your good endeavours to an happy conclusion.<sup>1082</sup>

There is no basis other than hindsight for interpreting her letter disingenuously.

### **Continuing commitment to union**

The Court group's commitment to the project is confirmed by the continuation of its strategy of keeping the Scottish succession open as a 'tye' over the English parliament. Having discussed the Scottish succession and abjuration with the Court group *after* the adjournment, Queensberry told Seafield, 'what is the Queen's, [Godolphin's] and the D of Marlborough's thoughts and desire' was that 'ther are verry good causes and reasons against settling the one and passing the other with relation to the union, because by not doing them it may be thought wee have tyes upon England'. However, lest this might encourage the Pretender, they hoped 'some expedient might be fallen upon, tho' not to settle the succession yet to declaire against that prince singly'.<sup>1083</sup>

Keeping the succession open was a risky strategy, exposing the Court group to allegations of Jacobitism, but it is clear that the adjournment did not mark the end of its union initiative. The Queen explained the prioritization of union to Lady Marlborough later that year:

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<sup>1080</sup> *Jerviswood*, Johnstone to Baillie, 13 February 1703, p. 10.

<sup>1081</sup> BL, Add Ms 61627, pre-meeting, 1 February, p. 159.

<sup>1082</sup> *APS*, xi, Appendix, p. 161.

<sup>1083</sup> NRS, GD 248 571/2, f. 5, Queensberry to Seafield, March 1703.

sertinly if the Union can ever be compassed there would be no occassion of naming a successor for then we would be one people & the endeavouring to make any Settlement now would...putt an end to the Union, which every body that wishes well to their Country must own would be a great happiness to both Nations.<sup>1084</sup>

A few days later she added: 'I do agree entirely it would be very good to have succession settled , but since the Union will do that, I must confess I can't see why one should be in greater haste now then we have been all this time'.<sup>1085</sup> As late as August 1703, Godolphin was still hoping that it would be possible to achieve 'a communication of trade and all reciprocal advantages to both nations' so that it would be inappropriate to 'make any settlement concerning the succession of Scotland'. Consideration of the succession would only be 'more reasonable after a Union was found to be impracticable' which he argued was not the case, since 'the most fundamental points' had been agreed and only time pressure had prevented its final agreement.<sup>1086</sup>

### **Termination of the negotiations**

Court group strategy for the 1703 session of the new Scottish parliament was based on its fragile 'Cavalier Alliance'.<sup>1087</sup> The succession was not to be raised and business was to be limited to securing a 'Recognizance' of the Queen's authority and of the validity of the last session of the Convention parliament, and obtaining further supply.<sup>1088</sup> Tweeddale's success in diverting parliament's attention to the succession, and the terms on which it would be settled, completely upset this strategy.

Although the resulting new Act of Security did not stipulate detailed terms, it demanded constitutional and trading concessions before the Scottish parliament would consider aligning the Scottish with the English succession.<sup>1089</sup> Following the refusal of royal assent to this Act, fearful that

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<sup>1084</sup> Gregg, *Queen Anne*, pp. 184-185, citing Blenheim E18, Queen to Lady Marlborough, 7 June 1703.

<sup>1085</sup> Curtis Brown, *Letters*, Queen to Lady Marlborough, 11 June [1704] p. 228: misdated to 1707 *per* Gregg, *Queen Anne*, p. 185.

<sup>1086</sup> *HMC Atholl & Hume*, Godolphin to Atholl, 9 August 1703, pp. 60-61.

<sup>1087</sup> Below, p. 257.

<sup>1088</sup> NRS, GD 248 571/2 f. 5, Queensberry to Seafield, March 1703.

<sup>1089</sup> Below, pp. 249-250 and p. 252.



parliament might be adjourned and union negotiations resumed, thereby avoiding the concessions envisaged in the Act, different groups in the Scottish parliament combined to terminate the union commission on 9 September 1703.<sup>1090</sup> These groups comprised not only the Country Party and Cavaliers but also ‘Presbyterians’ who had hitherto supported the Scottish ministry and the union project.<sup>1091</sup> As Seafeld told Godolphin ‘as for the union I also acknowledge that I do not find great inclinations for it, for the Presbyterians are afraid of their church government and many of the cavaliers are... against it’.<sup>1092</sup> It was, therefore, this combined Scottish opposition that terminated the 1702-1703 union project, not English indifference or hostility. Indeed, the Court group was exasperated by the Scots’ action. As Harley complained to Carstares:

here is a treaty set on foot by the public faith of both nations for an union; so great a progress is made in it that trade, and other things desired, seemed to be agreed; and without any regard to public faith or decency... all is laid aside and England is to be bound by a collateral act of another nation.<sup>1093</sup>

### Court group policy after 1703

The alignment of the Scottish and English successions was a fundamental Court group objective which, as the Queen had explained to Lady Marlborough, it intended to achieve indirectly through union.<sup>1094</sup> Importantly, however, she had added: ‘if that should not succeed, *then indeed it will be absolutely necessary*’.<sup>1095</sup> When the Court group’s strategy for the 1703 Scottish parliament began to unravel, it therefore became expedient to consider a Scottish Act of Settlement.

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<sup>1090</sup> APS, xi, p. 101; BL, Add Ms 34180, f. 19, Seafeld to Godolphin, 21 September 1703.

<sup>1091</sup> Ridpath, *Proceedings*, pp. 332-336.

<sup>1092</sup> BL, Add Ms 34180, ff. 9-10, Seafeld to Godolphin, 1 July 1703.

<sup>1093</sup> CSP, Harley to Carstares, 19 August 1703, p. 721.

<sup>1094</sup> Above, p. 224.

<sup>1095</sup> That is, settling the Protestant Succession. Curtis Brown, *Letters*, Queen to Lady Marlborough, 11 June 1704, pp. 227-228: misdated to 1707 *per* Gregg, *Queen Anne* p. 185. Emphasis added.

### The Scottish succession initiative

Accordingly, in July 1703 the Court group began to explore with the Scottish ministry the terms on which the succession might be settled by an Act of Parliament, while continuing to hope that union negotiations could be resumed. Atholl advised that it should not be attempted before either a union had been negotiated or the trading arrangements between the kingdoms reformed,<sup>1096</sup> and Seafield that if it were attempted in the present session, it would require unacceptable concessions. If it were to be attempted at all, it would need extensive preparation, the co-ordination of Scottish ministers, and the clear recommendation of the Queen.<sup>1097</sup>

As discussed in Chapter 5,<sup>1098</sup> the decision to proceed with a Scottish Act of Settlement was taken in the winter of 1703-1704 when the senior Scottish ministers came to Court for a *post mortem* on the 1703 session and to develop a new scheme for the 1704 session. Anne duly announced this intention to the Country Party delegation in March 1704 and confirmed it in her reply to the Lords' address over the 'Scotch Plot'. Following Seafield's advice, the Court group made careful preparations. It sought to build a new interest in the Scottish parliament by combining 'Revolution Interest' elements of the Country opposition (the 'New Party') with the existing Court Party (the 'Old Party') around a platform of 'reasonable' constitutional concessions, which the experience of 1703 had suggested would be necessary to secure parliamentary support for settling the succession.<sup>1099</sup>

Queensberry, whose conduct over the 'Scotch Plot' had alienated potential supporters, was replaced as High Commissioner by Tweeddale. Johnstone replaced Philiphaugh as Lord Clerk Register, and was tasked with the management of the Scottish parliament. The Queen's commitment was emphasized both in private and in her letter to the Scottish parliament, which recommended 'with

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<sup>1096</sup> BL, Add Ms 29589, f. 30, Atholl to Nottingham 18 July 1703.

<sup>1097</sup> BL, Add Ms 34180, ff. 9-10, Seafield to Godolphin, 1 July 1703, replying to Godolphin's of 19 June.

<sup>1098</sup> Above, pp. 155-156.

<sup>1099</sup> The efforts to combine these groups are described in: BL, Add Ms 34180, f.32, Seafield to Godolphin, 27 April; f. 36, 29 April; f. 40, 30 May; f. 44, 3 June; f. 50, 9 June; and f. 54 28 June 1704; HMC Laing, ii, Seafield memorial, June 1704, pp. 63-6; LRS, Seafield to Godolphin, 11 May 1704, and 6 July 1704, pp. 11-15; NLS, MS 7104, f. 32 Marlborough to Tweeddale, 4 April 1704; NLS, MS 7121, f. 23, Tweeddale to Godolphin, 3 June 1704; NRS, GD 248/559/36A, Godolphin to Seafield, 20 April, 17 May, 23 May, 25 May and 5 June 1704 .

all the earnestness we are capable of' the 'settleing of the succession in the Protestant line...' <sup>1100</sup>

Suggestions that the Queen was not committed to the settlement of the succession were condemned as an 'insolent presumption'. <sup>1101</sup>

Tweeddale and Johnstone failed because a fresh coalition of disparate groups in the Scottish parliament succeeded in passing a resolve on 17 July 1704 that the succession should not be considered before a commercial treaty with England *as well as* constitutional concessions had been secured. <sup>1102</sup> Tweeddale was replaced by Argyll and Philiphaugh reinstated as Clerk Register in 1705, but the emphasis on the succession 'before all other business' was repeated. As in 1704, the Queen was ready to assent to 'necessary and reasonable' constitutional concessions in return for alignment of the succession. <sup>1103</sup> However, as explained below, this did not mean that the Court group had abandoned union. It did not regard union and succession necessarily as mutually exclusive and merely reversed its priorities in response to Scottish political reality. Meanwhile, it pursued covert union discussions with the Scottish opposition in parallel with its succession initiative.

### **Succession and union: mutually exclusive?**

As discussed in Chapter 6, the origins of union policy lay in the recognition of the need for greater policy alignment within the Regal Union if it were to operate more effectively in European geopolitics. <sup>1104</sup> Union was therefore an end in itself, and while also providing an attractive solution to the problem of the Scottish succession, could in principle be pursued separately. Provided that it could secure an Act of Settlement without irreversible damage to the prerogative and without prejudicing the inducements for union, the Court group was prepared to decouple the succession from union and give it priority. If, however, political circumstances changed, it was happy to revert to alignment of the succession through union, which remained its ambition. This flexibility over the

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<sup>1100</sup> APS, xi, pp. 126-127

<sup>1101</sup> NLS, MS 7104, f. 40, Godolphin to Tweeddale, 31 July 1704.

<sup>1102</sup> Below, p. 253 and p. 259.

<sup>1103</sup> Curtiss Brown, *Letters: Argyll's Instructions*, p. 161; Queen's letter to parliament, p. 163.

<sup>1104</sup> Above, pp. 187-191, pp. 192-193 and p. 203.

means for aligning the succession is illustrated by Godolphin's attitude to negotiations for a clause in the Dutch Barrier Treaty whereby the Dutch would guarantee the Protestant Succession.<sup>1105</sup> He told Marlborough in October 1706 that 'the guaranty of the Succession... will bee of lesse importance to us every day, if they goe onn as well, as they have begun in Scotland. The letters of this day from thence, gives great hope of carrying the Union.'<sup>1106</sup>

In the short term, whether to pursue union or succession depended largely on political circumstances in Scotland. Either was acceptable, subject to conditions.<sup>1107</sup> This is apparent in 1705 from the Queen's letter to the Scottish parliament and Instructions to Argyll, which prioritized succession but simultaneously encouraged a treaty for union.<sup>1108</sup> On this basis, Godolphin told Seafield that either Hamilton or Roxburgh could have a decisive influence in the 1705 session, the former by ensuring that any Act passed for a treaty would not be 'clogged' by unacceptable terms, the latter by ensuring that the succession could be settled in return for 'reasonable' constitutional concessions.<sup>1109</sup> In this context, 'unclogged' meant allowing Court group control over the selection of commissioners and avoiding restrictions which would prevent the negotiation of an incorporating union while, as discussed below, 'reasonable' constitutional concessions should accommodate, and even encourage, union.<sup>1110</sup>

The understanding that union and succession were not necessarily mutually exclusive was not confined to the Court group. Either was a means of preserving the integrity of the British monarchy and securing the Protestant Succession. This appears from the terms of the Alien Act, which offered incorporating union to the Scottish parliament as an alternative to aligning the succession. For many, however, the problem with prioritizing union was that difficulties in reaching agreement might delay, perhaps indefinitely, settlement of the succession, for which reason it might attract Jacobite

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<sup>1105</sup> *MGC*, Godolphin to Marlborough, 16 April 1706, p. 520.

<sup>1106</sup> *MGC*, Godolphin to Marlborough, 18 October 1706, pp. 714-715.

<sup>1107</sup> NRS, GD 248/572/7, f. 14, Godolphin to Seafield, 18 June 1705.

<sup>1108</sup> Curtis Brown, *Letters*, pp. 161-164.

<sup>1109</sup> NRS, GD 248/559/36A, f. 25, Godolphin to Seafield, 14 July, 1705.

<sup>1110</sup> Below, pp. 230-232.

support.<sup>1111</sup> Indeed, the failure in 1702-1703 seemed amply to demonstrate this point. For example, Annandale complained that just as union had been proposed in 1702 to defeat abjuration, so a 'treaty' was being advanced in 1705 to defeat the succession.<sup>1112</sup> Ormiston similarly argued 'the treatie is but a handle to throw off the succession, for I don't find ten men of the Parliament will goe into a entire and compleat union, so that there is no prospect of a treaties taking effect'. If the English rejected Scottish trade demands, settling the succession would be even more difficult.<sup>1113</sup> This view was not confined to English Whigs and Scottish Revolutioners. Mar told Carstares before negotiations began in 1706:

we always told [the English], that we feared the difficulties of an entire union, and that some people might make it a pretext to stop settling the succession; therefore, we wished they would treat of terms as well as an union, that there might be no delay in that matter; ... But, if an union only was treated of...angry people would join together upon this pretext, to defeat the design in our hands, and to postpone the succession.<sup>1114</sup>

Haversham made the same point in the debates over the Alien Act.<sup>1115</sup> This concern to prioritize succession over union was exemplified in the Lords' address over the Scotch Plot:

we do most heartily and unanimously assure Your Majesty, that, when Your wise Endeavours for the settling the Succession in Scotland shall have taken the desired Effect, we will do all in our Power to promote an entire and compleat Union between the Two Kingdoms of England and Scotland, for their mutual Security and Advantage.<sup>1116</sup>

The Queen's reply carefully endorsed settling the succession, but as a step towards her union objective:

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<sup>1111</sup> Burnet, *History*, v, p. 227.

<sup>1112</sup> *HMC Laing*, ii, Annandale to Godolphin, 9 May 1705, pp. 110-111.

<sup>1113</sup> *LRS*, Ormiston to Godolphin, 31 May 1705, pp. 164-166.

<sup>1114</sup> *CSP*, Mar to Carstares, 9 March 1706, p. 743.

<sup>1115</sup> *Jerviswood*, Johnstone to Baillie, 21 December 1704, p. 26.

<sup>1116</sup> *LJ*, xvii, p. 554.

I have some Time since declared My Intentions of endeavouring the Settlement of the Protestant Succession in Scotland, to My Servants of that Kingdom, as the most effectual Means for securing their Quiet and our own, and the readiest Way to an entire Union betwixt both Kingdoms; in the perfecting of which, it is very desireable, no Time should be lost.<sup>1117</sup>

For the Court group, the problem with prioritizing the succession was that it would remove the 'tye' over the English parliament to accede to a union and the trade concessions which it would involve. If, however, the Scottish parliament could be persuaded to settle the succession in return solely for constitutional concessions, it might still be incentivized at a later date with trade concessions to support union. Correspondingly, if the constitutional concessions made to Scotland were suitably obnoxious from an English perspective, the English parliament might still be incentivized to accede to a union and the concomitant trade concessions. The subtlety of this approach seems to have been grasped by the Danish ambassador, Rosencrantz, who according to Macinnes, reported that Argyll's remit in 1705 was 'to secure an entire union in return for unfettered Scottish access to England's colonies...' and meanwhile 'to permit moderate limitations [on the prerogative] that would not be binding in the event of political incorporation'.<sup>1118</sup>

### **'Reasonable' constitutional concessions**

The constitutional concessions which the Court group considered 'reasonable' were set out in the Instructions to Seafield and Tweeddale in 1704 and carefully structured to accommodate a future union. They distinguished between 'limitations' on the prerogative of the Queen's nominated successor, and 'conditions of government' which might be granted in her lifetime. Essentially, the intention was that there should be no irreversible diminution of prerogative rights so that any concessions would disappear on a subsequent union.

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<sup>1117</sup> LJ, xvii, p. 557.

<sup>1118</sup> Macinnes, *Union & Empire*, p. 273.

Seafield was told that the Queen would consent to 'limitations' which provided for 'the nomination of Officers of State, councillors, and judges ... in the manner agreed to by our royal grandfather in the Parliament 1641'. This gave parliament control over such appointments, as demanded by radicals such as Fletcher.<sup>1119</sup> This substantial concession was, however, subject to an important condition:

*providing always that there be a clause in the Act of Settlement bearing that whenever there shall be a union, whether in government or in trade agreed on betwixt the two kingdoms, then both the Act about Peace and War and the aforesaid limitations as to the filling of places shall cease, and be void and null.*

She was also prepared to consent to 'conditions of government', including triennial parliaments and a place Act to exclude tax collectors and farmers from parliament. These were acceptable as approximating to existing English arrangements.<sup>1120</sup>

The Court group was adamant that no such concessions would be forthcoming without either settlement of the succession or an 'unclogged' Act for a treaty. Accordingly, when after assent to the Act of Security was given, Tweeddale proposed further concessions<sup>1121</sup> to encourage future parliamentary co-operation, he was roundly refused.<sup>1122</sup> The Court group took the same line in 1705, rejecting pleas for constitutional concessions before either proceeding with the succession or a treaty.<sup>1123</sup> Johnstone's argument that without the inducement of prior concessions there would be neither treaty nor supply provoked Godolphin into hinting at the suspension of the Scottish parliament and recalling the bellicose sentiments of English Whigs.<sup>1124</sup> He was clearly exasperated by

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<sup>1119</sup> See [Ridpath], *Proceedings*, for Fletcher's limitations, pp. 136-140, and pp. 141-150.

<sup>1120</sup> Curtis Brown, *Letters*, 5 April 1704, pp. 138-140 [emphasis added]. Tweeddale's Instructions are consistent with Seafield's: NLS, MS 7102, ff. 18-19.

<sup>1121</sup> *HMC Laing*, ii, Memorial, 26 July 1704, pp. 83-85; NLS, MS 7121, ff. 36 & 38, Tweeddale to Godolphin, 22 July and 26 July 1704.

<sup>1122</sup> NLS, MS 7104, f. 40, Godolphin to Tweeddale, 31 July 1704.

<sup>1123</sup> *LRS*, Seafield to Godolphin, 1 August 1705, p. 63; *Jerviswood*, Johnstone to Baillie, 28 August 1705, pp. 118.

<sup>1124</sup> *Jerviswood*, Johnstone to Baillie, 9 September 1705, p. 122; NRS, GD 248/559/36A, f. 29, Godolphin to Seafield, 18 August 1705 (postscript) repeats the threat to suspend the Scottish parliament.

the Scottish parliament's refusal on 17 July 1705 to consider the succession and limitations without a prior treaty, and then its refusal on 31 July 1705 to consider a treaty without prior limitations.<sup>1125</sup>

Ultimately, the consideration of constitutional concessions and the passage of triennial and place Acts was allowed in return for New Party support for an unclogged treaty Act, but on the understanding that these Acts would not receive royal assent.<sup>1126</sup>

### **Reservation of trading concessions**

The Scottish parliament showed great interest in securing some relaxation of the English Navigation Acts and the removal of discriminatory duties in return for aligning the succession.<sup>1127</sup> However, the Court group consistently excluded trading concessions from the incentives offered for doing so. This partly reflected practical politics, since such concessions required English parliamentary consent.<sup>1128</sup>

As explained in Chapter 7, this was highly unlikely without legislative union and measures to prevent Scottish underselling, in particular a common excise.<sup>1129</sup>

Moreover, the exclusion of trading concessions from any bargain over the succession also evidences Court group commitment to union for its own sake. The Court group realized that these were perhaps the most powerful incentive at its disposal for securing Scottish parliamentary consent for union, so would not undertake to procure them for less. At no stage was exchanging trade concessions for the succession ever considered, despite premature Whig assumptions that it might be possible to do so.<sup>1130</sup> As Nottingham rhetorically asked Atholl, was it imagined that England would communicate its trade in return only for accepting the English successor? Could Scotland, under a separate King, force trade concessions from England?<sup>1131</sup> Harley made the same points to Carstares.<sup>1132</sup> Accordingly, the 1703 Act of Security, which included a clause demanding free trade

<sup>1125</sup> *APS*, xi, p. 216, p. 218; *HMC Seafield*, Godolphin to Seafield, 9 August 1705, p. 207.

<sup>1126</sup> *NRS*, GD 248/559/36A, f. 28, Godolphin to Seafield, 11 August 1705.

<sup>1127</sup> Below, pp. 250-254.

<sup>1128</sup> *NRS*, GD 248/559/36A, f. 15, Godolphin to Seafield 13 July 1704; Burnet, *History*, v, p. 173.

<sup>1129</sup> Above, pp. 185-186.

<sup>1130</sup> *Jerviswood*, Johnstone to Baillie, 2 December 1704, p. 16 (postscript).

<sup>1131</sup> *BL*, Add MS 29595, f. 245, Nottingham to Atholl; see also f. 247, Nottingham to Tarbat, 14 August 1703.

<sup>1132</sup> *CSP*, Harley to Carstares, 19 August 1703, pp. 719-721.



with England and its Plantations before settling the succession,<sup>1133</sup> could by no means be assented to. The removal of this clause was critical to enabling royal assent in 1704.<sup>1134</sup>

The terms of the Alien Act reflected Court group strategy by making it clear that Scotland would not be allowed to leverage its open succession to win trading concessions. As Roxburgh told Baillie, ‘nor without an entire union will they ever give us any favour in trade’; and ‘nor should we have the least favour [in trade] without [entire union]’.<sup>1135</sup> For the Scottish ‘Revolution interest’, this effectively weaponized the succession issue, as discussed in Chapter 8.<sup>1136</sup>

### **Incentivizing the English parliament**

The argument that constitutional concessions would act as a ‘tye’ to induce the English parliament to make future trade concessions was explicitly deployed in Spring 1704 to persuade Scots reluctant to align the succession without trade concessions to support Tweeddale.<sup>1137</sup> This was a familiar argument, used in 1703 by the Country Party to justify the prioritization of limitations over a trade treaty.<sup>1138</sup> One such ‘tye’ already existed in 1704, and was indeed regarded by its Scottish proponents as a guarantee for any concessions granted in return for settling the succession. This was the Act anent Peace and War.<sup>1139</sup> Its inclusion in the Instructions’ list of measures that would disappear on a union confirms that the Court group regarded it as a powerful incentive to encourage the English parliament to support union. Indeed, as Roxburgh told Baillie, the English would never allow the Scots to enjoy it.<sup>1140</sup> It was in fact repealed in 1707.<sup>1141</sup>

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<sup>1133</sup> Below, p. 252.

<sup>1134</sup> NLS, MS 7104, f. 39, Godolphin to Tweeddale, 22 July 1704; *Jerviswood*, Johnstone to Baillie, 2 December 1704, p. 15 quoting Godolphin.

<sup>1135</sup> *Jerviswood*, Roxburgh to Baillie, 12 and 14 December 1704, p. 21 and p. 24.

<sup>1136</sup> Below, p. 260.

<sup>1137</sup> BL, Add Ms, 34180, f. 58, Seafield to Godolphin 8 July 1704; *LRS*, Seafield to Godolphin, 6 [5?] July 1704, p. 14; *HMC Laing*, ii, Seafield to Godolphin, 18 July 1704, p. 70.

<sup>1138</sup> For example, [Ridpath], *Proceedings*, Fletcher’s speech, pp. 209-212.

<sup>1139</sup> [Ridpath], *Proceedings*, pp. 302-304 and pp. 310-311; *HMC Laing*, ii, unsigned memorial, 18 July 1704, p. 76.

<sup>1140</sup> *Jerviswood*, Roxburgh to Baillie, 14 December and 26 December 1704, p. 24 and p. 28.

<sup>1141</sup> *LJ*, xviii, 18 December 1707, p. 393.

The Scottish parliament proceeded to provide the Court group with additional ‘tyes’ over the English parliament in 1704 and 1705. The Act of Security demanded unspecified constitutional concessions in return for aligning the succession, and meanwhile enjoined the arming and exercising of Scottish militias, while the Wool Act permitted Scottish woollen exports (and hence encouraged cross-border wool smuggling), threatening English textile manufacturing interests. Together with the 1703 Wine Act, these ‘four Acts’ were interpreted by the English parliament as threats to English security and trading interests, and consolidated support for the Court group’s union policy.<sup>1142</sup> Accordingly, the Alien Act commanded the support both of the overwhelmingly Tory Commons and the Whig Lords, while the Scottish parliament’s rejection of the renewed succession initiative in 1705 finally persuaded the Junto that there was no alternative to union.<sup>1143</sup>

### **Continuing Court group interest in union**

The Court group’s continuing preference for union while publicly committed to the succession was apparent to the Scottish ‘New Party’ ministry early in 1705. Roxburgh, in London to discuss with the Court group whether union or succession should be recommended to the next Scottish parliament, reported that ‘[union] is what seems most desired’.<sup>1144</sup> Johnstone subsequently confirmed that ‘[Godolphin’s] discourse, and all his friends, have all along declared him to be, in his judgement, for [union] and not for [limitations]’.<sup>1145</sup> Throughout June, while the Old Party threatened to split over whether to prioritize the succession or a treaty, the New Party expressed surprise that neither the Old Party nor the English Whigs seemed to understand the Court group’s commitment to union, or ‘secret’.<sup>1146</sup> In August, while the Scottish parliament debated whether to proceed with the succession or a treaty with England, Johnstone wrote that a treaty was still the Court group’s

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<sup>1142</sup> Discussed above, p. 159: summarized in *Jerviswood*, Johnstone to Baillie, 2 December, 1704, pp. 14-15

<sup>1143</sup> Above, pp. 163-164.

<sup>1144</sup> *Jerviswood*, Roxburgh to Baillie, 4 January 1705, p. 31.

<sup>1145</sup> *Jerviswood*, Johnstone to Baillie, 22 May 1705, p. 90.

<sup>1146</sup> *Jerviswood*, Roxburgh to Baillie, 6 June 1705, p. 106, 1 October 1705 p. 127, and 7 November 1705, p. 134.

‘favourite’.<sup>1147</sup> Seafield, of course, understood its intentions. Following the Scottish parliament’s Act empowering the Queen to appoint commissioners, he wrote to Godolphin to congratulate him on the achievement of his ‘endeavour’ of the last several years.<sup>1148</sup>

This continuing interest in union generated persistent rumours that the Court group was not fully committed to the succession initiative, and that there was a distinction between the Queen’s ‘secret’ and ‘revealed’ wills.<sup>1149</sup> These were assiduously spread by Queensberry’s supporters both before and after the opening of the 1704 session of the Scottish parliament to undermine Tweeddale and the succession initiative.<sup>1150</sup> Queensberry was, of course, entirely familiar with Court group thinking based on the 1702-1703 union negotiations and discussions in March 1703 over the creation of a ‘tye’. Despite indignant denials and Cromartie’s speech to the Scottish parliament to refute them,<sup>1151</sup> the rumours persisted, not least because they had substance.

Continuing Court group preference for union was demonstrated by its approach to the prior trade ‘treaty’ called for by Hamilton’s resolution in 1704. It was not hostile in principle, since negotiations for such a treaty could lead directly to union, provided that the treaty act was not ‘clogged’, for example by giving parliament the right to nominate commissioners.<sup>1152</sup> Hamilton’s treaty initiative collapsed because the Scottish parliament failed to agree on a list of commissioners, and was deflected into a debate over the Scotch Plot.<sup>1153</sup>

However, the Court group continued to explore the possibility of winning Hamilton’s support for a treaty, using Belhaven as an intermediary, during the winter of 1704-1705.<sup>1154</sup> Thanks to Hamilton’s

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<sup>1147</sup> Although, as before, prepared to accept ‘reasonable’ limitations if the succession were settled in return: *Jerviswood*, Johnstone to Baillie, 28 August 1705, p. 118.

<sup>1148</sup> *LRS*, Seafield to Godolphin, 3 September 1705, p. 90.

<sup>1149</sup> NLS, MS 7121, f. 30, Tweeddale to Godolphin, 18 July, 1704; *HMC Laing*, ii, Seafield memorial, 10 July 1704, p. 64; Haversham’s *Speech*, p. 3. See Clerk, *Memoires*, p. 53, for the enduring belief that the Court group did not support the succession initiative and all along sought union.

<sup>1150</sup> NLS, MS 7121, f. 30, Tweeddale to Godolphin, 18 July 1704.

<sup>1151</sup> *APS*, xi, Appendix, pp. 39-40.

<sup>1152</sup> NLS, MS 7104 f. 37, Godolphin to Tweeddale, 12 August 1704.

<sup>1153</sup> NRS, GD 205, Box 39, Belhaven Correspondence, Portfolio 9: Belhaven to Godolphin, 29 August 1704.

<sup>1154</sup> NRS, GD 205, Box 39, Belhaven Correspondence, Portfolio 9: Belhaven to Godolphin, 28 December 1704, 2 January, 10 February and 2 May 1705; Hamilton to Belhaven, 22 December 1704.

indiscretion,<sup>1155</sup> Argyll discovered this intrigue, much to his displeasure, although Godolphin maintained that the intention had merely been to enlist Hamilton's support for Argyll.<sup>1156</sup> As Baillie told Roxburgh, '[Belhaven] tells me that [Hamilton] says [the 'Court'] are but tricking; never had, nor [had] any designs to settle [the succession] for that they had been in termes with him, but broke off without any reason...' Significantly, Roxburgh replied that if Hamilton only *suspected* that the Court group was not committed to the succession he was obviously not party to its 'secret'.<sup>1157</sup> The Court group also explored union with other intermediaries through Harley and Carstares from the summer of 1704, which greatly displeased Tweeddale and the New Party.<sup>1158</sup> This too seems to have continued into the winter of 1704-1705.<sup>1159</sup>

### **Negotiation and ratification of the Treaty**

The strength of Court group commitment to union is abundantly clear after the Scottish Act empowering the Queen to appoint treaty commissioners was passed in September 1705. It made it known that only an incorporating union would 'relish' and rejected advice that the Scottish commissioners should be drawn from all parties.<sup>1160</sup> Suggestions that incorporation should be accomplished gradually were similarly ignored.<sup>1161</sup> Following agreement of the Treaty, Queensberry's Instructions in 1706 emphasized that his overriding priority was to secure ratification of the Union and that alternatives, including federal union and the settlement of the succession in return for limitations, would not be tolerated.<sup>1162</sup> When the parliamentary opposition stimulated popular protest, unnerving the Scottish ministry, and prompting its supporters to advise delay, the Court

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<sup>1155</sup> NRS, GD 205, Box 39, Belhaven Correspondence, Portfolio 9: Belhaven to Godolphin, 2 June 1705.

<sup>1156</sup> *Jerviswood*, Johnston to Baillie, 31 March 1705 p. 67, and 5 May 1705 p. 85; Riley, *Union*, p. 88 and p. 149.

<sup>1157</sup> *Jerviswood*, Baillie to Roxburgh, 31 May 1705 pp. 100-101, Roxburgh to Baillie, 3 June 1705, p. 102.

<sup>1158</sup> NLS, MS 7121, f. 28, Tweeddale to Godolphin, 14 July 1704; HMC Laing, ii, unsigned memorial, 18 July 1704, p. 74.

<sup>1159</sup> *Jerviswood*, Johnstone to Baillie, 13 January 1705, pp. 35-36.

<sup>1160</sup> *HMC Mar & Kellie*, Mar to Cromartie, 28 November 1705 p. 239; *Jerviswood*, Baillie to Roxburgh, 16 April 1706, pp. 150-151.

<sup>1161</sup> For instance, *HMC Mar & Kellie*, Stair to Mar, 3 January 1706, p. 243; Carstares to Mar, 2 March 1706, pp. 250-251; *CSP*, Mar to Carstares, 9 March 1706, p. 743; *Marchmont*, iii, Hamilton to [Godolphin], 14 November 1706, p. 422 and Cromartie to Godolphin, 18 November 1706, p. 431.

<sup>1162</sup> Curtis Brown, *Letters*, Instructions, 31 July 1706, pp. 190-191.

group was resolute in pressing forwards.<sup>1163</sup> Troops were made available for Queensberry's use, despite the demands of continental war.<sup>1164</sup> Further, in order to secure ratification, after initially resisting modification of the Articles, the Court group was prepared to concede the 'Explanations' without which Scottish ratification would have been doubtful.<sup>1165</sup>

## Conclusion

The Court group was fully committed to its ambitious union project in 1702-1703. Although the basic terms were 'obvious', the practical difficulties were underestimated and the timescale was unrealistic given the difficult issues and the simultaneous demands of the English parliamentary session. It was designed principally to enhance the coherence of the British monarchy but was also intended to settle the urgent problem of the Scottish succession. The Court group expected resistance from the English Commons and so took considerable political risks after the negotiations had been adjourned to maintain a 'tye' over them. However, it was the loss of control over the Scottish parliament in 1703 that was fatal to the project, not English indifference or hostility.

Political realities in England and Scotland and the importance of settling the Protestant Succession in Scotland obliged the Court group to decouple the succession from union and give it priority, but it did not abandon union. The terms offered for aligning the succession were carefully crafted to reserve the basis on which a union could subsequently be negotiated. Meanwhile the Court group continued to explore potential support for union within the Scottish opposition. Its succession initiative did not therefore mean that its union policy was, in Ferguson's words, a 'dead duck'.<sup>1166</sup> It was a pragmatic approach to achieving one of the Court group's core objectives which could accommodate the resumption of union negotiations if successful. If it failed, union on the terms envisaged in 1702-1703 might be resumed: which is exactly what happened.

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<sup>1163</sup> BL, Add Ms 6420, f. 72, Godolphin to Queensberry, 14 November 1706.

<sup>1164</sup> *HMC Mar & Kellie*, Nairn to Mar, 26 November, p. 336 and 10 December 1706, p. 353.

<sup>1165</sup> *LRS*, Seafield to Godolphin, 7 November 1706, p. 101; *HMC Mar & Kellie*, 23 November and 2 December 1706, p. 331 and p. 341; Whatley, *Scots & Union*, p. 323.

<sup>1166</sup> Ferguson, *Relations*, p. 207.

The Union was, therefore, the outcome of consistent Court group policy, pursued from 1700, which originated in the impact of the Darien affair on geopolitical strategy and core Court group Scottish objectives. The continuity of policy is evident from the fact that with the exception of 1701, Court group interest in union was made public in every year between 1700 and 1707.<sup>1167</sup> On the basis of this conclusion, narratives making the Union the outcome of Scottish pressure for reform of the Regal Union which gained political traction only in 1704<sup>1168</sup> require reassessment. This is the subject of the next chapter.

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<sup>1167</sup> Even then, the Lords established a committee to promote union in 1701: see p. 142 above.

<sup>1168</sup> Above, pp. 27-34.

## Chapter 8 Made in Scotland? The Court Group and the Scottish Parliament.

### Introduction

This chapter reassesses the role of Scottish political pressure for reform of the Regal Union in the origins of the Union. It argues that Scottish determination to leverage the open succession to secure reform initially frustrated Court group union policy but ultimately was of fundamental importance in enabling its implementation. This was because the failure to secure the Protestant Succession in Scotland by way of an Act of Settlement was crucial in convincing both the Scottish 'Revolution Interest' and English Whigs that union was the only way to secure the achievements of the Scottish and English Revolutions. This allowed the Court group to build parliamentary coalitions to support its union policy in both kingdoms from 1705. To this extent, the Union *was* made in Scotland.

The impact of Scottish political demands on English parliamentary opinion has already been discussed in Chapters 5 and 7.<sup>1169</sup> This chapter therefore deals solely with Scotland. It begins by examining the circumstances which made alignment of the Scottish succession, either by way of union or Act of Settlement, politically impossible in 1702-1705. This is followed by an outline showing how these circumstances initially frustrated Court group strategy and how they were ultimately exploited to realize the Union.

### Obstacles to settling the succession

The obstacles to settlement of the Protestant Succession in Scotland were complex and interconnected. Firstly, there was a broad Scottish consensus that the Court group's urgent need to align the succession afforded unprecedented leverage to secure reform of the Regal Union in Scotland's favour. Secondly, the fragmentation of interests in the Scottish parliament meant that no group could command a majority in support of an agenda to exploit this leverage. Thirdly, there was

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<sup>1169</sup> Above, p. 159, pp. 163-164 and pp. 233-234.

only limited consensus over the content of such an agenda. Finally, there were two powerful parliamentary groups which (for very different reasons) consistently opposed settlement of the succession without a trade deal. These are considered in detail below.

### **Leveraging the succession**

In 1702 Ridpath expressed the broad Scottish consensus that the open succession should be exploited to extract constitutional and trading concessions with characteristic trenchancy:

[The English] have actually settled their succession and have adjusted their limitations for the next successor. We are still at liberty both as to the one and the other...[accordingly] The [Scottish] People have an opportunity of making what terms they please with the next prince or family they prefer to the Crown.<sup>1170</sup>

This opinion was not confined to radical polemicists. It enjoyed widespread support outside parliament, evidenced by the instructions not to settle the succession without winning concessions sent by constituents to members of parliament before the 1704 session.<sup>1171</sup> Within parliament, accounts of speeches in the 1703 session make it plain that the open succession was regarded as an unmissable ‘opportunity’ to redefine the relationship between the kingdoms.<sup>1172</sup> Furthermore, it was shared by many of the Court group’s Scottish supporters. As Godolphin drily observed regarding the Acts anent Peace and War and of Security, ‘it is observable enough that the Queen’s servants who agree in nothing else do yet all agree it would be for Her Majesty’s service in [Scotland] to pass these Acts’.<sup>1173</sup> The fact that the English parliament had exploited the succession to impose limitations on Anne’s successor in the English Act of Settlement was used by Scottish ministers to justify similar Scottish limitations. For example, Seafeld told Godolphin that parliament would not agree to settle the succession without union, trade or constitutional concessions ‘especially seeing the successor is

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<sup>1170</sup> [Ridpath], *Discourse*, pp. 154-155.

<sup>1171</sup> NLS, MS 7121, f. 30, Tweeddale to Godolphin, 18 July 1704.

<sup>1172</sup> For example, [Ridpath], *Proceedings*: Fletcher’s speech proposing his twelve limitations, p. 148; and Belhaven’s speech on the Act of Security, pp. 141-150.

<sup>1173</sup> BL, Add Ms 29589, ff. 107-108, Godolphin to Nottingham, 23 August 1703.



so much limited in England'.<sup>1174</sup> The characterization of Court group Scottish supporters by Country polemicists as supine creatures of 'England' motivated by office and its rewards should not, therefore, be accepted uncritically.

The renewal of war with France in May 1702 enhanced Scottish leverage, inasmuch as it underscored the need for parliamentary supply. This was not because Scottish taxation was essential for Marlborough's campaigns, but because the Court group's pronounced fear of Jacobite insurrection and a French 'descent'<sup>1175</sup> required a Scottish garrison funded by parliamentary taxation.<sup>1176</sup> This threat did not disappear with Blenheim, and indeed an actual descent took place in 1708. Withholding supply could, therefore, be used to bring pressure on the Court group, as it was in 1704 to win assent to the Act of Security.

This determination to exploit Scotland's increased leverage was reinforced by widespread anti-English sentiment engendered by the Darien affair and exacerbated by further English acts of egregious insensitivity. These included the seizure of the *Annandale* by the English East India Company,<sup>1177</sup> the House of Lords investigation into the Scotch Plot, and the Lords' address calling for the Queen to settle the Protestant Succession in Scotland. The latter in particular was deeply resented as 'an undue Intermeddling with our concerns, and an Incroachment upon the Independency, Honour and Sovereignty of this Nation'.<sup>1178</sup> It confirmed the narrative of English influence and claims that 'the English' had simply assumed that Scotland would follow their lead on the succession and the war. It therefore undermined the 1704 succession initiative, enabling Fletcher to portray Tweeddale and Johnstone as mere tools of English policy.<sup>1179</sup> Scottish resentment was intensified by English polemicists, such as Drake and Attwood, asserting English supremacy over

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<sup>1174</sup> BL, Add Ms 34180, f. 50, Seafield to Godolphin, 9 June 1704.

<sup>1175</sup> For example, NRS, GD 248/559/36A, f. 14, Godolphin to Seafield 28 June 1704; f. 19 Godolphin to Seafield, 10 August 1704; and NLS, MS 7104, f. 37, Godolphin to Tweeddale, 12 August 1704.

<sup>1176</sup> Above, pp. 176-177.

<sup>1177</sup> Whatley, *Scots & Union*, pp. 215-216.

<sup>1178</sup> APS, xi, 28 August 1704, pp. 204-205.

<sup>1179</sup> *Crossrigg*, p. 147.

Scotland,<sup>1180</sup> and by the penal provisions of the Alien Act. It was fully exploited by opposition groups, inhibiting the formulation of constructive policy. For example, Tweeddale, Johnstone and Seafield explained to Godolphin in 1704 that there were many 'well meaning' Scottish MPs who would support an Act of Settlement but for their belief 'that the Court of England will never do anything for the good of this nation but when they are forc'd to it'.<sup>1181</sup> The scale of anti-English sentiment was evident in 1705 from the popular disturbances over the *Worcester* affair<sup>1182</sup> and the unanimous parliamentary address to the Queen making the commencement of union negotiations conditional on the repeal of the Alien Act's 'alien' provisions.<sup>1183</sup>

There were limits to this leverage, however. Failure to settle the Protestant Succession in Anne's lifetime was likely to precipitate civil war, possibly a French invasion, and English intervention. Neither the Court group nor the English parliament could be pushed too far, certainly after the victories at Blenheim and Ramillies. This was Clerk's view:

for to all thinking Men it appeared evident that sooner or later the Scots behoved to come into the same succession, or expect to see their Country a schen of bloodshed and confusion, for it was impossible for the Scots to make choise of a different king from the persone who was to succeed to the Crown of England.<sup>1184</sup>

In 1703-1704, however, this opinion was not prevalent.

### **Parliamentary fragmentation**

Although there was broad agreement over the 'opportunity', the fragmented make-up of the parliament elected in 1702 inhibited the execution of any coherent policy to exploit it. This parliament was elected in very different circumstances from its predecessor. The burgh franchise

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<sup>1180</sup> Fully discussed in Ferguson's 'Imperial Crowns'.

<sup>1181</sup> *HMC Laing*, ii, 26 July, pp. 83-85.

<sup>1182</sup> Whatley, *Scots & Union*, p. 216.

<sup>1183</sup> *APS*, xi, 4 September, 1705, p. 238.

<sup>1184</sup> Clerk, *Memoires*, p. 65.

was not extended in the way that it had been in 1689, so that local interests were again able to influence burgh elections.<sup>1185</sup> The accession of Anne, a Stuart with a clear hereditary claim to the throne and a known commitment to episcopacy, encouraged episcopalians and Jacobite sympathizers to qualify themselves either to sit (as peers) or stand for election. Their participation was encouraged by the attempt at the beginning of Anne's reign to broaden the basis of Scottish support for the Court group by appealing to 'juring' episcopalians. The Tory leaders Rochester and Nottingham were attracted by the prospect of establishing a Tory-aligned interest in the new parliament to challenge the Whig-orientated presbyterian supremacy.<sup>1186</sup> Notwithstanding Marchmont's determined efforts, the 1702 election therefore took place without the benefit of abjuration legislation similar to England's, which would have excluded most Jacobite sympathizers.<sup>1187</sup> Finally, public outrage over Darien, the failure to reward Scottish sacrifice in the Nine Years War, and acute concern over taxation and the decay of trade, had by no means abated. The resultant groupings in the new parliament defy neat categorization. It comprised up to around 300 members<sup>1188</sup> of whom some 225 took their seats in May 1703.<sup>1189</sup> Their behaviour was determined by a variety of factors, amongst which commitment to principle, connection and self-advancement were not necessarily consistent. Many did not have strong opinions and some were financially or otherwise constrained from attending on a regular basis, resulting in absences and abstentions. Others shifted their allegiances over the next four years for a variety of different reasons. Labels and headcounts of membership for any one group must therefore be handled carefully. In particular it is unhelpful to categorize members in 1703 by reference to their support or otherwise for the Union in 1706-1707. Nevertheless, certain salient features are clear and are

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<sup>1185</sup> K.M. Brown, 'Party Politics and Parliament: Scotland's Last Election and its Aftermath, 1702-3', *Parliament and Politics in Scotland*, pp. 264-266.

<sup>1186</sup> *Jerviswood*, Johnstone to Baillie, 4 August 1702, pp. 5-6; Riley, 'Scottish Ministry of 1703', pp. 115-116; 'Union as an Episode in English Politics', pp. 501-502; and 'Abjuration Vote', pp. 180-182;

<sup>1187</sup> *Marchmont*, iii, Marchmont to Pringle, 13 June 1702 p. 240, and his memorial to Anne, 11 July 1702, p. 248.

<sup>1188</sup> Brown & Mann, 'Introduction', in *Parliament and Politics in Scotland*, pp. 49-50.

<sup>1189</sup> Brown, 'Scotland's Last Election', p. 256.

important for the purposes of understanding the Court's failures in 1703-1705 and its subsequent success. These are considered below.

Most importantly, those described by Whatley as the 'Revolution Interest'<sup>1190</sup> were a majority. Most of them could ultimately (if reluctantly) be united in defence of the Protestant Succession and presbyterian church government. As discussed below,<sup>1191</sup> this is broadly what the Court group achieved in 1706-1707 to ratify the Union. However, this Interest was deeply divided by principle and intense personal rivalries. While most broadly adhered to what contemporaries referred to as the 'Court Party', many in 1703 aligned with the opposition Country Party.

Although this 'Court Party' was the largest group, comprising some 90-100 members,<sup>1192</sup> at no time was it able to command a majority. It was a highly unstable coalition, prone to internecine strife and defection. A core of perhaps 30 conservative, erastian presbyterians, prominent amongst whom were the Duke of Argyll, Annandale, Ormiston and Marchmont, comprised its 'Presbyterian' element.<sup>1193</sup> They regarded themselves as the true Revolution Interest and generally supported abjuration in 1702,<sup>1194</sup> but were divided by personal rivalries and suffered the largest losses in the 1702 elections.<sup>1195</sup> After the failure of abjuration, they were profoundly suspicious of Court group motives, unnerved by its negotiations with the opposition leaders Hamilton and Tweeddale during 1702,<sup>1196</sup> and rumours of toleration for, or even the re-imposition of, episcopacy.<sup>1197</sup> This was followed by Marchmont's replacement as Chancellor by Seafield, and a major reconstruction of the ministry which sought to attract support from moderate episcopalians.<sup>1198</sup> Their fears were

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<sup>1190</sup> Whatley, *Scots & Union*, pp. 37-39 and pp. 87-92; Whatley and Patrick, 'Persistence, Principle and Patriotism', p. 165.

<sup>1191</sup> pp. 260-264.

<sup>1192</sup> Brown, 'Scotland's Last Election', p. 274.

<sup>1193</sup> Riley, 'Scottish Parliament of 1703', pp. 132-133.

<sup>1194</sup> Riley, 'Abjuration Vote', p. 175.

<sup>1195</sup> Riley, 'Abjuration Vote', p. 189, fn. 34.

<sup>1196</sup> See NLS, MS 7021, f. 56, f. 58 and f. 60, Yester to Tweeddale, 19 November, 28 November and 8 December 1702, for Country Party discussions with the Court group.

<sup>1197</sup> *Jerviswood*, Johnstone to Baillie, 13 February 1703, p. 11; [Ridpath], *Discourse*, p. 77.

<sup>1198</sup> Bringing in Tarbat, Atholl and Tarbat's brother, Prestonhall, and replacing 'Presbyterians'.

confirmed in February 1703 by the Queen's letter to the Privy Council enjoining the treatment of episcopalian clergy in accordance with the law, and the issue of a proclamation indemnifying past opponents of the Revolutionary regime.<sup>1199</sup>

In addition to the 'Presbyterians', the Court Party included a loose group whose primary loyalty was to the Court group, most notably Seafield. Some had Jacobite connections or, like Tarbat, professed episcopalian sympathies. It also included Queensberry's interest of some 30 members, including his 'cabinet'<sup>1200</sup> and his proteges Mar and Glasgow. Queensberry himself possessed impressive Revolution credentials, having been the first Scot of significant rank to join William,<sup>1201</sup> and so could convincingly present himself (at least to English Whigs) as leader of the Scottish Revolution interest. This element within the Court Party had broadly opposed abjuration,<sup>1202</sup> and fared better than the Presbyterians in the 1702 elections.<sup>1203</sup>

In 1703, the Court Party also included Tullibardine (who succeeded as Marquis of Atholl in 1703). He was a 'disobliged courtier' with Jacobite connections who had been forced out of the ministry by Queensberry and the Duke of Argyll in 1698.<sup>1204</sup> Much to Queensberry's disgust, he was brought back into the ministry at the end of 1702 as part of the Tory strategy of broadening its base. He and his followers returned to opposition in 1704 (despite his being rewarded with a dukedom) having been the principal victim of Queensberry's attempt to use the 'Scotch Plot' to smear his political opponents as Jacobites.<sup>1205</sup>

The different interests comprising the Country Party accounted for perhaps 60 members.<sup>1206</sup> It included a distinct group within the Revolution interest centred around Tweeddale, his proteges

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<sup>1199</sup> Riley, 'Ministry of 1703', p. 129.

<sup>1200</sup> Stair, Sir Hew Dalrymple, Sir David Dalrymple, and Philiphaugh.

<sup>1201</sup> Riley, *King William*, p. 13.

<sup>1202</sup> CSP, Philiphaugh to Carstares, 4 July 1702, pp. 714-716.

<sup>1203</sup> Brown, 'Scotland's Last Election', p. 274.

<sup>1204</sup> Riley, *King William*, pp. 119-123.

<sup>1205</sup> NLS, MS 7021, ff. 81 and 83, Alexander Bruce to Tweeddale, 7 and 11 December 1703.

<sup>1206</sup> Brown, 'Scotland's Last Election', p. 273 and Riley, *Union*, p. 49.

Roxburgh and Rothes, and conservative presbyterians with impeccable Revolution credentials, notably Baillie of Jerviswood. They had formed the basis of the opposition to the ministry since the dismissal of Johnstone and Tweeddale's father in 1696 and espoused a classic Country program prioritizing constitutional reform.<sup>1207</sup> They maintained contact with the Court group through Johnstone, who settled in London after his dismissal. During the Darien agitation they united with Hamilton's and Atholl's interests to form the Country Party. They also attracted a group of some 15 radicals (which included Fletcher) inspired by the 1641 Covenanter precedents and the 1689-1690 'Club' agenda.

Hamilton, Scotland's premier peer, having been excluded by Queensberry and Argyll from government on his return to Scotland in 1699<sup>1208</sup> had gone into opposition with his followers and taken a leading role in the agitation over Darien. He is often represented as the Country Party's leader, which does little justice to Tweeddale's status in 1703, while his ambition and indebtedness involved him in increasingly devious machinations with the Jacobites and the Court group.<sup>1209</sup>

Thanks to Tory encouragement, for the first time since the Revolution the house included a group, about 70 strong,<sup>1210</sup> variously described as 'Episcopalians', 'Tories', 'Jacobites' or 'Cavaliers.'<sup>1211</sup> This, too, was not homogenous, including outright Jacobites such as Lockhart, as well as episcopalian 'jurors' who had avoided direct association with Jacobitism and in 1703 sought accommodation with the Revolution regime and toleration.<sup>1212</sup>

As well as matters of principle, these groups were divided by self-interest and often virulent personal antagonisms. For instance, Tweeddale and his connections loathed Queensberry,<sup>1213</sup> while

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<sup>1207</sup> Macinnes, *Union & Empire*, p. 264.

<sup>1208</sup> For Hamilton's attempt to exploit Darien to gain office, see BL, Add Ms 6420, f. 3, Hew Dalrymple to Queensberry, 12 December 1699.

<sup>1209</sup> D. Szechi, 'Playing with Fire: the 4<sup>th</sup> Duke of Hamilton's Jacobite Politics and the Union', *Parliamentary History*, 39 (2020) pp. 62-84.

<sup>1210</sup> Brown, 'Scotland's Last Election', p. 273; Riley, *Union*, p. 49.

<sup>1211</sup> Ridpath initially calls them 'Anti-Revolutioners', and later 'Cavaliers': *Proceedings*, pp. 31-32.

<sup>1212</sup> Macinnes, *Union & Empire*, pp. 253-254.

<sup>1213</sup> NLS, MS 7021, f. 68A, Bruce to Tweeddale 11 March 1703.

Queensberry displayed an almost obsessive hatred of Atholl which was fully reciprocated.<sup>1214</sup>

Outside Queensberry's interest, there was a general dislike and resentment of the Dalrymples.<sup>1215</sup>

### **Absence of consensus**

Narratives which give prominence to constitutional demands generally understate the diversity of opinion across these fragmented groups. As discussed below, until the Union, no coherent programme for reform of the Regal Union ever commanded majority support. The most common threads concerned trade, reparations for Darien and the preservation of presbyterian church government. It is no coincidence that these were all addressed in the Union.

Tweeddale's followers consistently espoused a classic Country programme of triennial parliaments, place acts, parliamentary commissions of account and limitations on the prerogative after Anne's death, in return for alignment of the succession.<sup>1216</sup> Elements of this programme also attracted support from other groups. For example, they commanded some traction with the Presbyterians, whose primary concerns were the protection of presbyterian church government and securing the Protestant Succession. Their prioritization of the succession over the prerogative and policy alignment is clear from Marchmont's abortive attempt on 6 September 1703 to introduce an Act naming the Hanoverian successor, which envisaged significant limitations on the prerogative.<sup>1217</sup> They had become suspicious of the Court group's union project, fearing that negotiations might defer, perhaps indefinitely, settlement of the succession, and if successful might undermine presbyterianism.<sup>1218</sup> They continued to entertain doubts over union in 1705-1707: indeed, Annandale actively opposed it and the Lord Advocate refused to support it.

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<sup>1214</sup> NLS, MS 7104, f. 31, Atholl to Tweeddale, 11 December 1703.

<sup>1215</sup> *HMC Laing*, ii, Seafield's memorial, 10 July 1704, p. 62.

<sup>1216</sup> For example, *Jerviswood*, Roxburgh to Baillie, 28 May 1705, pp. 97-98; Baillie to Roxburgh, 2 June 1705, p. 100; Johnstone to Baillie, 12 July 1705, pp. 113-114; and Baillie to Johnstone, 23 August 1705, pp. 116-118.

<sup>1217</sup> Boyer, *Annals*, 2, pp. 61-63.

<sup>1218</sup> BL, Add Ms 34180, f. 9-10, Seafield to Godolphin, 1 July 1703.

Resentment over the lack of benefit derived by Scotland from its participation in the Nine Years' War ran wide and deep, and was shared by Scottish ministers. For instance, Seafield advised assent for the Act anent Peace and War because 'this kingdom has lost so much by the last and the present war and we never have any benefit by the peace, besides in this war we have had no protection'.<sup>1219</sup> Tarbat concurred: 'why must we make warr when England finds it advantage to make warr, and yet never share in the benefit of England's treaties, nor partake in the Fruits of their success?'<sup>1220</sup> This, rather than anti-war sentiment, was responsible for the passage in 1705 of an Act for separate Scottish diplomatic representation (the 'Embassy Act'), for which the Scottish parliament was even willing to pay.<sup>1221</sup>

A substantial number of Cavaliers, perhaps as many as 35, were initially reluctant to limit royal prerogatives and in 1703 continued to co-operate with the Scottish ministry.<sup>1222</sup> However, after 1704, when Hamilton reached an understanding with Jacobite leaders,<sup>1223</sup> Cavalier backing for constitutional concessions was more consistent, for two reasons. Firstly, limitations on royal prerogatives might deter Hanoverian acceptance of the Scottish crown. Secondly, when it became clear that the Pretender would not abandon Roman Catholicism, Protestant Jacobites accepted the need for limitations in order to preclude the return of the arbitrary government with which Catholicism was associated. Consequently, Cavaliers could share common ground with radical Whigs, disappointed with the compromises of the Williamite regime.<sup>1224</sup>

However, support for radical constitutional change, such as advocated by Fletcher, was limited. While congenial to modern opinion, these went well beyond contemporary mainstream Country

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<sup>1219</sup> BL, Add Ms 29589, f. 12, Seafield to Nottingham, 10 July 1703.

<sup>1220</sup> [Tarbat], *Parainesis*, p. 9.

<sup>1221</sup> *Jerviswood*, Baillie to Johnston, 21 September 1705, p. 124.

<sup>1222</sup> BL, Add Ms 29589, f. 169, Tarbat to Nottingham, 11 September 1703; Riley estimates their number at 27 in 'Parliament of 1703', p. 139.

<sup>1223</sup> Szechi, 'Playing with Fire', pp. 74-75; *Lost Revolution*, p. 123.

<sup>1224</sup> Szechi, *Lost Revolution*, pp. 123-129.



thinking, and were routinely dismissed as ‘republican’ or ‘Commonwealth principles’.<sup>1225</sup> Their limited appeal was demonstrated by the defeat (by a majority of 24) of Fletcher’s attempt to introduce his ‘Twelve Limitations’ into the Act of Security in 1703.<sup>1226</sup> Similarly, in 1705, Fletcher failed in an attempt to impose in the Queen’s lifetime limitations on the successor proposed by Rothes. Reflecting Hamilton’s accommodation with the Cavaliers, and the absence of mainstream interest in radical reform, the only seconder for his motion was the Jacobite leader, the Earl of Home.<sup>1227</sup>

It is important to recognize that proposals for constitutional reform did not necessarily preclude a ‘treaty’ with England. A treaty to remodel trading relations with England was widely recognized as an inevitable and desirable consequence of reforming the constitutional relationships between the kingdoms. As discussed in Chapter 3,<sup>1228</sup> the issue was over what sort of union such a treaty would create.<sup>1229</sup> This provides context for the rejection of the succession initiative in 1704 in favour of prioritizing the negotiation of a treaty with England,<sup>1230</sup> and the approval of the Act empowering the Queen to appoint treaty commissioners in 1705.

The absence of a consensus over constitutional reform was exemplified by the Act of Security itself, although it is generally presented as a Country measure. It provided that if Anne died without issue and no successor had been nominated, the successor chosen by the Scottish parliament could not be successor to the crown of England unless during Anne’s reign:

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<sup>1225</sup> This was recognized by the ministry, which sought to turn parliament’s attention to voting supply by forcing a division on 15 September over whether to proceed with Fletcher’s limitations or with supply. In order to defeat this procedural manoeuvre, Fletcher was obliged to withdraw his proposals: Boyer, *Annals*, 2, pp. 75-76, and *HMC Portland*, iv, [unknown] to Harley, 23 September 1703, p. 66.

<sup>1226</sup> *APS*, xi, p 63; Boyer, *Annals*, 2, p. 44.

<sup>1227</sup> *LRS*, Seafield to Godolphin, 18 August 1705, p. 74.

<sup>1228</sup> Above, pp. 103-105.

<sup>1229</sup> For example, NRS, GD 406/1/10344, Hamilton to Duchess Anne, 11 February 1705.

<sup>1230</sup> *APS*, 17 July 1704, p. 128.

such conditions of Government [be] settled and enacted as may secure the honour and sovereignty of this Crown and Kingdom, the freedom frequency and power of Parliaments, [and] the religion, liberty and trade of the Nation from English or any foreigne influence...<sup>1231</sup>

Significantly, however, it did **not** articulate what these 'conditions of government' were to be. As noted above, Fletcher's attempts to do so were unsuccessful. Indeed, notwithstanding Ridpath's claim that it was Fletcher's draft that was closest to the Act's final form,<sup>1232</sup> the 'conditions of government' provision was Roxburgh's. The Act left both the succession and the conditions of government open for negotiation and did not preclude the negotiation of a union, federal or incorporating. It could therefore be, and was, supported by a wide spectrum of opinion, ranging from Queensberry's interest, concerned with trade concessions and the frustration of Tweeddale's succession initiative, to Jacobites, happy to defer indefinitely the settlement of the Protestant Succession.<sup>1233</sup> Defoe's assessment, that the Act was intended as a basis for negotiation with England for reform of the Regal Union,<sup>1234</sup> is consistent with Johnstone's interpretation and with the part played by Tweeddale and Roxburgh in its drafting.<sup>1235</sup>

Whatley has shown that the fundamental importance of improving Scotland's trade and reforming its trading relationship with England were widely recognized.<sup>1236</sup> However, other than the need for reparations over Darien, which remained a burning issue, championed by Hamilton,<sup>1237</sup> there was no consensus over the concessions required from England.<sup>1238</sup> As Seafield advised:

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<sup>1231</sup> APS, xi, pp. 136-137.

<sup>1232</sup> [Ridpath], *Proceedings*, p. 132.

<sup>1233</sup> Stephen, *Scottish Presbyterians* pp. 24-25.

<sup>1234</sup> Defoe, *History*, pp. 74-75.

<sup>1235</sup> *Jerviswood*, Johnstone to Baillie, 2 December 1704, p. 14; and [Johnstone/Ridpath], *Reflections on a late Speech by the Lord Haversham* (London, 1704) pp. 13-26.

<sup>1236</sup> Whatley, *Scots & Union*, pp. 211-214.

<sup>1237</sup> NRS, GD 205/39, Belhaven Correspondence, Portfolio 9, Belhaven to Godolphin, 22 July 1704 and 6 August 1704.

<sup>1238</sup> Riley, *Union*, p. 140.

Some think they should have conditions from England concerning our tread, such as the taking off of the impositions on our cattle, linning, cloth and coal, and the Act of Navigation might be softened... Others are for a full communication of tread...<sup>1239</sup>

As noted in Chapter 2,<sup>1240</sup> what seems to have grated most with Scots of all opinions was the overriding of their rights as subjects of the Queen by the Navigation Acts. This was compounded by the additional restrictions imposed on Scots in royal service in the Plantations by the 1696 Plantation Trade Act, and the differential duties imposed by England on imports from Scotland. In this respect at least, Hew Dalrymple's views coincided exactly with Ridpath's.<sup>1241</sup>

The conviction that a 'communication of trade' with England and its Plantations would benefit Scotland was especially characteristic of the Court Party. Tarbat, for example, complained that 'there is no Nation so much hurt in Trade by England as is Scotland',<sup>1242</sup> and advised that it was highly unlikely that a Scottish parliament would agree to align with the English succession 'without some greater invitation than a bare promise of an union'.<sup>1243</sup> Court Party interest in trade concessions was reflected in the Scottish commissioners' commitment to securing a 'full' communication of trade in return for aligning the succession and incorporation in the 1702-1703 negotiations.<sup>1244</sup> Their support for incorporation does not mean that they were subservient to the Court group still less to England. The paper Tarbat shared with Nottingham on the dire consequences for Scotland of an 'arithmetical' equality of taxation, and Hew Dalrymple's memorial on the level of taxation Scotland could reasonably bear, both demonstrate a realistic understanding of Scottish (and English) conditions and a readiness to resist Court group and English demands.<sup>1245</sup>

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<sup>1239</sup> *LRS*, Seafield to Godolphin, 6 [5?] July 1704, p. 14.

<sup>1240</sup> Above, pp. 63-65.

<sup>1241</sup> [Ridpath], *Proceedings*, pp. 200-205; BL, Add Ms 61627, p. 96.

<sup>1242</sup> [Tarbat], *Parainesis*, p. 9.

<sup>1243</sup> *HMC Laing*, ii, pp. 41-42, [c. 1703].

<sup>1244</sup> Above, pp. 215-219.

<sup>1245</sup> Above, p. 214 and p. 218, fn. 1052.

The ministry's continuing interest in trade concessions was evident in the debates in 1703 over the proposed new Act of Security. When Roxburgh introduced a clause making alignment of the succession conditional on constitutional concessions, the ministry proposed an alternative, drafted by the Lord Advocate, making a 'free Communication of Trade, the Freedom of Navigation, and the Liberty of the Plantations'<sup>1246</sup> the sole condition for alignment of the succession. This is often portrayed as a cynical manoeuvre to deflect parliamentary interest in constitutional change,<sup>1247</sup> but should perhaps be interpreted in the light of an authentic interest in trade concessions. It was certainly not welcomed by the Court group, which consistently refused to countenance exchanging a trade deal for an Act of Settlement.<sup>1248</sup>

Whatever the ministry's motives, there is no doubt that leveraging the succession to secure trading concessions was fully supported by other groups. The Country and radical interest in constitutional reform, for instance, was not at the expense of trade. Rather, they argued that without constitutional reform, trade concessions could be withdrawn, so that constitutional reform had to take priority.<sup>1249</sup> Cavaliers, too, could support calls for trade concessions, both as ends in themselves and as a means of deferring settlement of the succession by demanding more than the English parliament was prepared to grant. The strength of parliamentary interest in trade concessions is clear from the enthusiastic support for the combination of the Lord Advocate's trade clause with Roxburgh's 'conditions of government' clause.<sup>1250</sup> Seafield explained to Godolphin that it could not be resisted 'because of the great resentment there is in this Nation because of the Act of Navigation and the loss of our Colony of Caledonia and the Acts made in England against our privileges in the Plantations'.<sup>1251</sup>

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<sup>1246</sup> Scott, *Fletcher and the Union*, Appendix B, pp. 229-231.

<sup>1247</sup> For example, Riley, *Union*, p. 58.

<sup>1248</sup> *HMC Atholl*, Godolphin to Atholl, 9 August 1703. Above, pp. 228-229.

<sup>1249</sup> [Ridpath], *Proceedings*, pp. 206-214 quoting a Fletcher speech in July 1703.

<sup>1250</sup> Brown, 'Scotland's Last Election', p. 283; [Ridpath], *Proceedings*, pp. 186-187 and pp. 193-195.

<sup>1251</sup> *HMC Laing*, ii, Seafield to Godolphin, 28 July 1703, p. 36.

Hamilton exploited this wide interest in trade concessions to derail the 1704 succession initiative. On 13 July he proposed a resolve, couched in the most general terms to attract maximum support,<sup>1252</sup> that 'this parliament will not proceed to the nomination of a successor until we have a previous treaty with England in relation to our commerce and other concerns with that nation'.<sup>1253</sup> Rothes' attempt on behalf of the ministry to refocus parliament on constitutional concessions in return for alignment of the succession only resulted in the composite resolve of 17 July making consideration of the succession dependent on both a prior trade treaty and constitutional concessions.<sup>1254</sup>

Although the Act of Security as passed in 1704 did not include the communication of trade clause, this was not because parliament had lost interest in trade. It was simply that the clause was no longer necessary in the light of this composite resolve.<sup>1255</sup> Parliament's abiding interest in trade concessions was evidenced by pleas from the Scottish ministry for modest trading concessions and reparations for Darien in order to widen the appeal of the succession initiative.<sup>1256</sup> Reparations were agreed in principle, as Harley reminded Carstares,<sup>1257</sup> although gratuitous concessions were consistently refused.<sup>1258</sup>

This interest in trade was sustained in the 1705 session, which again resolved not to consider the succession without a prior trade treaty and constitutional concessions, and devoted considerable parliamentary time to trade issues.<sup>1259</sup> However, while a communication of trade would be the 'main point and *sine qua non*' of any treaty with England, it was increasingly realized that the extent of any trade concessions depended critically on the English Commons, whose co-operation was by no means certain.<sup>1260</sup> There was therefore relief in ministerial circles, disappointment amongst

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<sup>1252</sup> Unlike the Advocate's clause, it stipulated neither a communication of trade nor access to the Plantations.

<sup>1253</sup> *APS*, xi, p. 127; *Crossrigg*, pp. 138-139; *HMC Laing*, ii, Seafield to Godolphin 14 July 1704 p. 68.

<sup>1254</sup> *APS*, xi, pp. 127-128.

<sup>1255</sup> NLS, MS 7121 f. 36 and f. 38, Tweeddale to Godolphin 22 and 26 July 1704; *HMC Laing*, ii, Seafield's memorial July 1704, p. 88; BL, Add Ms 34180, f. 70 Seafield to Godolphin, 6 August 1704.

<sup>1256</sup> For example, BL, Add Ms 34180, f. 62, Seafield to Godolphin 22 July 1704; and *HMC Laing*, ii, unsigned memorial 18 July 1704, p. 74 and p. 76; Ministerial Memorial, 26 July 1704, p. 85.

<sup>1257</sup> *CSP*, Harley to Carstares, 20 July 1704, p. 728.

<sup>1258</sup> Above, pp. 231-232.

<sup>1259</sup> Whatley, *Scots & Union*, pp. 245-246.

<sup>1260</sup> *Jerviswood*, Johnstone to Baillie, 3 May 1705, p. 84

Jacobites, and surprise elsewhere, when it became clear in 1706 that generous concessions would be offered, albeit at the price of incorporation.<sup>1261</sup>

While there was general interest in trade concessions, the parliament was deeply divided over religion. The 'Revolution Interest' majority was united in a determination to protect the Revolution's presbyterian church settlement. In 1703 it rejected toleration, confirmed presbyterian church government, and made it treasonable to impugn the Claim of Right (which asserted that episcopacy was a grievance). Further, the Kirk's General Assembly protested in the strongest terms against the proposed Toleration Act in June 1703.<sup>1262</sup> As well as excluding the possibility of any meaningful participation by the substantial Cavalier minority in government, and destroying the 'Cavalier Alliance',<sup>1263</sup> it was obvious to the Court group after this demonstration of presbyterian solidarity that any remodelling of the Regal Union would have to be based on the presbyterian church settlement and Presbyterian support in parliament.

#### **Opposition to settling the succession without trading concessions.**

The Cavaliers provided the core support for the 1704 and 1705 resolves not to consider the succession without a prior trade treaty with England. Their primary objective was, of course, to obstruct the Protestant Succession, and insistence on a trade deal as a condition of considering the succession was a means to this end. For the same reason, Cavaliers could support a treaty Act with the intention of clogging it with conditions unacceptable to either the Court group or an English parliament, thereby preventing alignment of the succession through union.

However, a second group, Queensberry's interest, consistently opposed alignment of the succession without a trade deal. Despite its key role,<sup>1264</sup> its motives have received little scholarly attention,

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<sup>1261</sup> For example, *HMC Mar & Kellie*, Mar to Montrose, 3 March 1706, p. 253; NRS, GD 406/1/7147, Selkirk to Duchess Anne, 22 March 1706 reporting Orkney's intelligence that such great concessions were to be made 'that it will not be in our power to refuse them'.

<sup>1262</sup> Brown, 'Scotland's Last Election', pp. 279-280.

<sup>1263</sup> Riley, *Union*, pp. 54-55.

<sup>1264</sup> Macinnes, *Union & Empire*, p. 272, argues that they, not the New Party, held the balance of power in 1705.

although Macinnes has drawn attention to Queensberry's commitment to preserving prerogative rights<sup>1265</sup> and McKay to his monarchical, as opposed to Scottish, political perspective.<sup>1266</sup> Following Riley's and Ferguson's rebuttals of Trevelyan's narrative (which accorded a measure of principle to Queensberry's behaviour) it has been widely accepted that he and his followers were entirely motivated by self-interest. They were certainly interested in mitigating the impact of the 1696 Plantation Trade Act on Scots in the Queen's service in English colonies.<sup>1267</sup>

Whatever their motivation, they displayed impressive consistency. In 1701 they argued for leveraging the succession to secure trade concessions;<sup>1268</sup> on the grounds that it would reduce Scottish leverage over England, they opposed abjuration in 1702,<sup>1269</sup> and endorsed the creation of a 'tye' in 1703. Their defection from the Court Party to support Hamilton's resolve not to consider the succession without a prior trade treaty was decisive in defeating the succession initiatives in 1704 and 1705.<sup>1270</sup> Their behaviour in 1704 is usually ascribed to self-interested hostility to the 'New Party', but they behaved in exactly the same way in 1705 after the dismissal of the New Party. They split the Old Party over the prioritization of a treaty Act over an Act of Settlement<sup>1271</sup> and again voted against the ministry in support of Hamilton's re-introduction of the resolve not to consider the succession without a trade treaty.<sup>1272</sup> As Baillie complained, the succession with limitations could have been settled in 1705, had the Old Party played its part. It did not do so because it was opposed by Queensberry's followers.<sup>1273</sup>

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<sup>1265</sup> Macinnes, *Union & Empire*, p. 97.

<sup>1266</sup> C. McKay, *The Duke of Queensberry and the Union of Scotland and England: James Douglas and the Act of Union of 1707* (Youngstown, 2008).

<sup>1267</sup> For example, *CSPC*, xx, Numbers 211-212, Proceedings of the Barbados Council, 17-18 March 1702, pp. 143-145.

<sup>1268</sup> Riley, *Union*, p. 37, citing Buccleuth (Drumlanrig), 'Seven Letters', Murray to Queensberry, 5 August 1701,

<sup>1269</sup> *CSP*, Philiphaugh to Carstares, 4 July, 1702, pp. 714-717.

<sup>1270</sup> *HMC Laing*, ii, Seafield to Godolphin, 18 July 1704, p. 71; unsigned memorial 18 July 1704 pp. 72-73; NLS, MS 7121, f. 30, Tweeddale to Godolphin 18 July 1704.

<sup>1271</sup> *LRS*, Seafield to Godolphin, 29 May 1705, p. 46.

<sup>1272</sup> *LRS*, Seafield to Godolphin, 18 July 1705, p. 59.

<sup>1273</sup> *Jerviswood*, Baillie to Johnstone, 23 August 1705, p. 117.

This group also provided the strongest and most consistent support for the Union in 1706-7. They took resolute action to overawe anti-Union rioters, bringing in troops to quell the riot of 23 October, installing troops thereafter to protect parliament, suspending the provisions of the Act of Security for exercising fencible men, and issuing a proclamation against tumultuary and irregular meetings in response to unrest outside Edinburgh in late November.<sup>1274</sup> Stair's parliamentary eloquence contributed substantially to the ratification process, earning him Godolphin's grateful eulogies.<sup>1275</sup>

It was, however, independent of the Court group. Reference has already been made to Hew Dalrymple's memorial on the equality of taxation in the 1702-1703 union negotiations.<sup>1276</sup> This combined a realistic appreciation of the benefits of free trade with England and its Plantations and a determination to resist Court group insistence on a common excise. The Court group was correspondingly deeply suspicious of Queensberry and disliked him personally.<sup>1277</sup> After the Union, the Duumvirs excluded him from the Cabinet despite his key role in ratification and his office of Scottish Secretary in the new British ministry.<sup>1278</sup>

### The failure to align the succession 1703-1705

These circumstances made alignment of the succession politically impossible in 1703-1705, either by way of union or Act of Settlement. Lacking an outright majority, the Court group was obliged to try different combinations of parliamentary groups to deliver the Queen's business, but was defeated by opposing combinations. For the same reason, opposition groups could not combine in support of a coherent agenda. In this series of shifting combinations, small groups exercised disproportionate influence, as described below.

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<sup>1274</sup> *HMC Mar & Kellie*, Mar to Nairn 26 October 1706, pp. 299-300, and 30 November 1706, pp. 338-340; *HMC Portland*, iv, Stair to Harley 26 November 1706, p. 359; *APS*, xi, p. 309 and pp. 341-344.

<sup>1275</sup> *HMC Bath*, i, Godolphin to Harley, [January] 1707, p. 158.

<sup>1276</sup> Above, p. 218 fn. 1052 and p. 251.

<sup>1277</sup> Curtis Brown, *Letters*, Anne to Godolphin, 14 June 1705, p. 160

<sup>1278</sup> *MGC*, Godolphin to Marlborough, 25 May 1707, pp. 793-794.



Court group policy in 1702-1703 was to align the succession through union.<sup>1279</sup> Following the breakdown of negotiations with Country Party leaders in November 1702, the Court group turned for support to the Cavaliers,<sup>1280</sup> who in return for limited concessions, were prepared to support a limited agenda which studiously avoided consideration of the succession.<sup>1281</sup> It was confined to voting supply for the army, securing a 'Recognizance' of the Queen's authority from the date of William's death, and confirming the legitimacy of the 1702 session of the Convention parliament.<sup>1282</sup> However, reliance for this Recognizance on the Cavaliers provoked Presbyterian hostility inside and outside the Scottish ministry. The Duke of Argyll demanded an Act ratifying the legality of the Convention parliament and all its proceedings in return for not supporting Tweeddale's motion to prioritize consideration of the succession. In agreeing to this, without reassuring the Presbyterians, Queensberry alienated the Cavaliers, with whose support Tweeddale's motion was carried. The addition of a clause to the Duke of Argyll's Act making it treason to impugn or attempt to alter the Claim of Right united the Revolution interest majority in support of the presbyterian church settlement. Following the emphatic rejection by the General Assembly of the Kirk of the principle of toleration, the attempt to pass a Toleration Act was abandoned and the 'Cavalier Alliance' collapsed.<sup>1283</sup>

Without Cavalier support, and with the Presbyterians unreconciled and prepared to prioritize the Protestant Succession at the expense of the prerogative, the ministry was unable to prevent the passage of the Act of Security and the termination of the union commission.<sup>1284</sup> It also failed to secure supply and conceded assent to the Act anent Peace and War. However, the Court group's

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<sup>1279</sup> Above, pp. 223-224.

<sup>1280</sup> Riley, *Union*, pp. 44-47 and 'Ministry of 1703', pp. 117-125. For Country Party comments on the ministerial changes, see NLS, MS 7021, f. 64, Bruce to Tweeddale, 18 January 1703.

<sup>1281</sup> Riley, *Union*, pp. 48-51. For the Cavaliers' objectives see *HMC Laing*, ii, Seafield to Godolphin June 170[3] (wrongly ascribed to 1704) p. 62.

<sup>1282</sup> Essential because this parliament had passed the Act empowering Anne to appoint union commissioners and an Act for a cess, while the Country Party had claimed that its sitting was in breach of the 1696 Act of Security, and seceded in protest.

<sup>1283</sup> Riley, *Union*, pp. 54-55 and 'Parliament of 1703', pp. 136-139; Brown, 'Scotland's Last Election', pp. 277-280.

<sup>1284</sup> Above, pp. 224-225.

defeat was not as comprehensive as suggested by Lockhart's and Ridpath's partisan accounts. The Cavalier Alliance enabled it to realize all its limited legislative objectives other than supply. After its collapse, the Scottish ministry could still enlist support from Cavaliers reluctant to limit the prerogative and was therefore able to defeat Fletcher's attempts to introduce imitations into the Act of Security.<sup>1285</sup> Further, following the rejection of Marchmont's Act to settle the Hanoverian succession, it also attracted support from errant Presbyterians.<sup>1286</sup> Assisted by these groups, the ministry defeated attempts to include in the Act anent Peace and War provisions to prohibit troop movements in and out of Scotland without parliamentary permission (which would effectively have prevented Anne's successor recruiting in Scotland ),<sup>1287</sup> and a renewal of Fletcher's limitations proposals.<sup>1288</sup> It also prevented an address to the Queen over the withholding of assent for the Act of Security, and passed the Wine Act, which permitted the import of French wines and liquor, prohibited in 1701, so restoring the ministry's largest source of customs revenues.<sup>1289</sup>

The termination of the union commission obliged the Court group to prioritize a Scottish Act of Settlement.<sup>1290</sup> For this purpose, it attempted a new parliamentary combination, offering constitutional concessions and replacing Queensberry as High Commissioner with Tweeddale, in order to bring his followers into the Court Party and unite the Revolution interest. It was, however, enormously difficult to retain Old Party support while demonstrating that power and patronage now lay with Tweeddale and the 'New Party'.<sup>1291</sup> Consequently, the Court Party again split, this time suffering the defection of Queensberry's interest, while the rumour that Queensberry was still in favour discouraged support for Tweeddale.<sup>1292</sup> The Country Party likewise split, Hamilton refusing to

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<sup>1285</sup> *APS*, xi, 7 July 1703, p. 63; *Crossrigg*, p. 115; *HMC Laing*, ii, Seafield to Godolphin, 8 July 1703, pp. 25-28; Boyer, *Annals*, 2, p. 44; Brown, 'Scotland's Last Election', p. 281.

<sup>1286</sup> Riley, 'Parliament of 1703', p. 143; *Union*, p. 56.

<sup>1287</sup> Boyer, *Annals*, 2, p. 58.

<sup>1288</sup> *APS*, xi, p. 102; Boyer, *Annals*, 2, p. 72.

<sup>1289</sup> BL, Add Ms 34180, f. 19 and f. 23 Seafield to Godolphin, 21 and 23 September 1703; *HMC Laing*, ii, Seafield to Godolphin, 14 September 1703, pp. 36-38; Riley, *Union*, pp. 58-59; 'Parliament of 1703', pp. 147-149.

<sup>1290</sup> Above, pp. 225-227.

<sup>1291</sup> NLS, MS 7121, f. 30, Tweeddale to Godolphin, 18 July 1704; BL, Add Ms 34180, f. 40, Seafield to Godolphin, 30 May 1704; *HMC Laing*, ii, Seafield Memorial, 10 July 1704 pp. 62-65.

<sup>1292</sup> BL, Add MS 34180, f. 50 and f. 54, Seafield to Godolphin, 9 June and 28 June 1704; Riley, *Union*, p. 93.

support Tweeddale's succession initiative without trading concessions.<sup>1293</sup> The rump of the Country Party, with which Atholl and the Cavaliers aligned, thereafter assumed an altogether more Jacobite or Cavalier aspect, and was frequently referred to as such by its opponents.<sup>1294</sup> Queensberry's interest allied with Hamilton and the Cavaliers to prevent any parliamentary investigation into the Scotch Plot and to support Hamilton's resolution not to consider the succession without a prior trade treaty with England.<sup>1295</sup> Having thus defeated the Court group's succession initiative, this coalition went on to secure assent for the Act of Security (shorn of its trade clause)<sup>1296</sup> but collapsed over framing an Act empowering commissioners to negotiate the proposed treaty with England.<sup>1297</sup> Thereafter the 'Scotch Plot' divided the opposition, although it reunited around condemnation of the House of Lords' investigation into the Plot.<sup>1298</sup>

The 1705 session again demonstrated that there was no parliamentary majority for an Act of Settlement in return solely for constitutional concessions. The Court group renewed its efforts to unite the Revolution Interest in support of its succession initiative by replacing Tweeddale with Argyll while retaining a largely New Party ministry. This failed because Argyll refused to work with the New Party and dismissed them from office,<sup>1299</sup> and because the Old Party was split between largely Presbyterian proponents of an Act of Settlement (notably Ormiston, the Lord Advocate and Annandale) and proponents of a 'treaty', led by Queensberry's interest.<sup>1300</sup> Although Argyll realized that the 'onlie probabilitie of success is nou that of the treaty',<sup>1301</sup> he was obliged by the Court group

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<sup>1293</sup> Hamilton bitterly lamented Tweeddale and Johnstone's splitting the 'most substantiall party that there ever was for the support of our Countrie': NRS, GD 406/1/7847, Hamilton to Duchess Anne, 20 March 1705.

<sup>1294</sup> Although the radicals did not join Tweeddale.

<sup>1295</sup> *HMC Mar & Kellie*, i, Queensberry to Mar, 1 August 1704, pp. 228-229; *HMC Laing*, ii, Seafield's memorial, 10 July, 1704, p. 63.

<sup>1296</sup> *HMC Laing*, ii, Ministerial Memorial, 26 July 1704, pp. 83-85; Riley, *Union*, p. 99

<sup>1297</sup> BL, Add MS 34180, f. 74 Seafield to Godolphin, 20 August 1704.

<sup>1298</sup> BL, Add Ms 34180, f. 74 Seafield to Godolphin, 20 August 1704, and f. 80, Seafield to Godolphin, 29 August 1704; Bowie, 'Publicity, Parties and Patronage', p. 88; Riley, *Union*, p. 101.

<sup>1299</sup> *ISL*, i, Argyll to Godolphin, 6 April 1705, pp. 9-12 and 26 May 1705, pp. 18-21.

<sup>1300</sup> *Jerviswood*, Baillie to Roxburgh, 24 May 1705, p. 92 and Baillie to Roxburgh, 26 May 170, p. 96; *LRS*, Seafield to Godolphin, 29 May and 9 June 1705, p. 46 and p. 49.

<sup>1301</sup> *LRS*, Seafield to Godolphin, 29 May 1705, p. 46; *ISL*, Argyll to Godolphin, 26 May 1705, p. 21.

to prioritize the succession,<sup>1302</sup> in order to show English, and especially Whig, opinion that a Scottish Act of Settlement was impossible to achieve and so consolidate English support for union.<sup>1303</sup> While the New Party supported an Act of Settlement and limitations, Queensberry's interest, as in 1704, voted with Atholl, the radicals and the Cavaliers in favour of Hamilton's revival of his 1704 resolve not to consider the succession without a prior trade treaty (as well as constitutional reform).<sup>1304</sup>

As discussed in Chapter 7, the Court group would not make constitutional concessions without agreement over the succession,<sup>1305</sup> while the Alien Act was crucial in dispelling the illusion that trade concessions could be won by anything other than legislative union.<sup>1306</sup> Consequently, when the 1705 succession initiative failed, those Scots 'true to the Revolution and the Protestant Succession' (in Baillie's words) were, like English Whigs, obliged to accept, often reluctantly, the political reality that an 'unclogged' treaty was the only way to deliver the Protestant Succession, protect the presbyterian church settlement, and secure trade concessions. Roxburgh was an early convert to the benefits of union,<sup>1307</sup> but others, notably Baillie, whose preference was for a 'federal' union, and only reluctantly accepted incorporation as a 'lesser evil', had to be convinced.<sup>1308</sup> This realization, in addition to generous trade concessions, provided the foundations of the 'Revolution Interest' coalition which the Court group built in support of union from 1705.

### The Union coalition 1705-1707

However, there was no sudden conversion to union, still less to the incorporating union envisaged by the Court group. Parliamentary interest in a trade treaty with England had to be converted into support for an 'unclogged' treaty, that is, one which did not limit the commissioners' remit and gave

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<sup>1302</sup> Above, pp. 162-164.

<sup>1303</sup> *LRS*, Seafield to Godolphin, 8 June 1705, p. 49.

<sup>1304</sup> *APS*, xi, 17 July 1705, p. 216; *LRS*, Seafield to Godolphin, 18 July 1705, p. 59.

<sup>1305</sup> Above, pp. 231-233. See *LRS*, Seafield to Godolphin, 1 August 1705, p. 63.

<sup>1306</sup> *Jerviswood*, Roxburgh to Baillie, 12 December, 1705, p. 21.

<sup>1307</sup> *Jerviswood*, Roxburgh to Baillie 28 November 1705 pp. 137-139, and 22 December 1705, p. 143.

<sup>1308</sup> *Jerviswood*, Baillie to Roxburgh 15 December 1705, p. 142, and 29 December 1705, pp. 143-144. For Ormiston's conversion, see Johnstone to Baillie, August 1706, p. 156.

the Queen the power of appointment, which could deliver an incorporating union. Conversion was often gradual and resulted in varying levels of enthusiasm.<sup>1309</sup>

It was clear that the Old and New Parties could not be combined into a single 'Revolution Interest' party in the way envisaged in 1704. The New Party was publicly committed to the Protestant Succession in return for limitations, loathed Queensberry and, after its ejection from office, could scarcely be expected to work with Argyll. Meanwhile, both groups were subject to the endemic challenges of maintaining cohesion. The New Party, without the patronage afforded by office, was reduced to a 'squadron' by defections to Hamilton (for example, Selkirk and Belhaven) and to the Old Party (for example, Marchmont, Montrose and Haddington). The Old Party continued to be split between supporters of an Act of Settlement and supporters of a Treaty, exacerbated by Annandale's personal quarrel with Argyll and Queensberry.

In these conditions, there were four elements to Court group tactics for aligning the Revolution Interest during 1705-1707. Firstly, it preserved contact with the New Party through Johnstone, its agent in London, and secret correspondence with its leaders, notably Roxburgh, to ensure that the New Party retained its separate identity. The objective was to prevent the revival of the powerful Country Party of 1699-1703 and to encourage the New Party to vote with the Old Party on specific issues.<sup>1310</sup> Secondly, it recognized the vital importance of retaining the support of Queensberry's interest.<sup>1311</sup> Despite the Queen's misgivings,<sup>1312</sup> he was brought back into the ministry in 1705 with Philiphaugh and Glasgow, and made High Commissioner in 1706. Thirdly, it made careful use of patronage to retain the Old Party's fragile unity, which occasionally involved making distasteful concessions, for example to Argyll and his family.<sup>1313</sup> Ultimately, in 1706, it made £20,000 available

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<sup>1309</sup> Whatley, *Scots & Union* p. 263 and pp. 268-270.

<sup>1310</sup> *LRS*, Seafeld to Godolphin, 26 August and 2 September 1705 pp. 76-77 and p. 83; *NRS*, GD 248/559/36A, f. 30, Godolphin to Seafeld, 1 September 1705; *Jerviswood*, Johnstone to Baillie, 1 September 1705, p. 119 and Baillie to Roxburgh, 8 September 1705, p. 121; Riley, *Union*, pp. 260-268.

<sup>1311</sup> *LRS*, Seafeld to Godolphin, 9 June 1705, p. 50; *ISL*, Argyll to Godolphin, 7 June 1705, p. 21.

<sup>1312</sup> Curtis Brown, *Letters*, Anne to Godolphin, 14 June 1705, pp. 160-161.

<sup>1313</sup> *HMC Mar & Kellie*, Argyll to Mar, 18 July 1706, p. 270; *MGC*, Marlborough to Godolphin, 21 August 1706, p. 655.

to the Scottish Treasury, which was largely used to pay off outstanding debts of the Scottish government, principally those owed to individuals whose support it was keen to secure for the ratification of the Union.<sup>1314</sup>

The fourth element defies detailed examination owing to its clandestine nature, but its existence is clear from its effects. The Court group contrived that Hamilton delivered an acceptable Treaty Act and then undermined opposition to ratification of the Union.<sup>1315</sup> Explanations for the leverage that the Court group was able to exercise over Hamilton vary: his ambition, which allowed the Court group to hint at giving him a role in government (for example as a union commissioner) in return for his services; his personal indebtedness and encumbered English estates, which predisposed him to recognize the benefits of union; and his implication in Jacobite schemes for insurrection.<sup>1316</sup> He was certainly compromised by virtue of the fact that after his split from Tweeddale in 1704, his parliamentary traction essentially depended on his understanding with the Jacobite Cavaliers.<sup>1317</sup>

That these tactics were only gradually effective is evident from the close votes in the 1705 session. The New Party selectively supported the ministry or the opposition (or tactically abstained), which earned them the nickname of the *Squadron Volante*. They secretly intimated that they were prepared to support a treaty if parliament were allowed to vote constitutional reforms, on the understanding that they would not receive royal assent.<sup>1318</sup> On this basis, with *Squadron* support, Hamilton and the Cavaliers passed a Triennial Act effective in Anne's lifetime (although the ministry was able to defer its commencement when the *Squadron* switched sides<sup>1319</sup>) and an Act vesting

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<sup>1314</sup> Whatley, *Scots & Union*, p. 324; Macinnes, *Union & Empire*, pp. 292-295; Riley, *Union* pp. 256-259.

<sup>1315</sup> See *Jerviswood*, Johnstone to Baillie, 13 July 1705, p. 114, for rumours that the Court group had secured Hamilton's co-operation.

<sup>1316</sup> Riley, *Union* p. 149, pp. 268-270; Whatley, *Scots & Union*, pp. 248-250; Macinnes, *Union & Empire*, pp. 274-275. Scott, *Andrew Fletcher*, pp. 141-143.

<sup>1317</sup> Szechi, 'Playing with fire', pp. 74-76.

<sup>1318</sup> *LRS*, Seafield to Godolphin 5 August 1705 p. 66. NRS, GD 248/559/36A, f. 28, Godolphin to Seafield, 11 August 1705.

<sup>1319</sup> *LRS*, Seafield to Godolphin, 26 August, 1705, p. 79; *Jerviswood*, 23 August 1705, Baillie to Johnstone, p. 116.

power over appointments to the Council of Trade in parliament, and not the Queen.<sup>1320</sup> Although they sided with the ministry to ensure that the house considered a treaty, they generally voted with opposition attempts to 'clog' it. Accordingly, the ministry only narrowly succeeded in defeating amendments to the treaty Act excluding from the commissioners' remit anything that might derogate from the fundamental laws and liberties of Scotland, limiting negotiations to a federal union, and precluding negotiations until the penal provisions in the Alien Act had been repealed. It was Hamilton, not the New Party, who engineered the key provision empowering the Queen to appoint commissioners. Although Tweeddale and Roxburgh abstained, the *Squadron* mostly voted for the parliamentary nomination of commissioners. Even then, the ministry had to concede an address to the Queen calling for the removal of the offensive provisions of the Alien Act, which was unanimously approved.<sup>1321</sup>

Although the *Squadron's* leaders were excluded from the union commission, the Court group continued to engage with them,<sup>1322</sup> so that by the time that the Scottish parliament met to consider the Union Treaty in 1706 they were broadly committed to union.<sup>1323</sup> This was made explicit when they voted with the Court Party to proceed with consideration of the Treaty on 15 October 1706. Their support appeared to give the Court Party an unassailable parliamentary majority,<sup>1324</sup> while unimpeachable presbyterians such as Baillie were invaluable in the management of the Commission of the Kirk's General Assembly.<sup>1325</sup> However, the Court group still needed Hamilton to deliver ratification. Its union coalition was vulnerable to defection and recognizing this weakness, opposition tactics were to delay the parliamentary process while (as in 1699-1700 over Darien) bringing extra-parliamentary agitation to bear on the Court Party. By November 1706, this activity

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<sup>1320</sup> *LRS*, Seafield to Godolphin, 11 August 1705, pp. 67-70.

<sup>1321</sup> *LRS*, Seafield to Godolphin, 3 September 1705, pp. 85-88; *APS*, xi, p. 238.

<sup>1322</sup> For example, *MGC*, Marlborough to Godolphin 8 August 1706 p. 647 and 7 October 1706, p. 703. *Jerviswood*, Baillie to Johnstone, 8 October 1706 p. 163.

<sup>1323</sup> *HMC Mar & Kellie*, Mar to Godolphin, 8 October 1706, p. 286; *LRS*, Seafield to Godolphin, 14 October 1706 p. 94.

<sup>1324</sup> Riley, *Union*, pp. 271-273; *Macinnes, Union & Empire*, pp. 300-301.

<sup>1325</sup> *LRS*, Seafield to Godolphin, [21] October 1706, p. 98; *Macinnes, Union & Empire*, p. 286; Stephen, *Scottish Presbyterians*, p. 57.

had a marked effect on parliamentary support for ratification and on the morale of the Scottish ministry.<sup>1326</sup> The Court group therefore used its influence over Hamilton to sabotage the opposition's efforts to exploit popular protest. Again, the means it used are obscure, although according to Clerk, Hamilton met secretly with Queensberry on a regular basis,<sup>1327</sup> but the results are clear. While continuing to lead opposition to the Union, Hamilton cancelled a planned rising of presbyterians and Jacobites in November. Next, a march of petitioners on parliament and a national address to the Queen to demonstrate the scale of opposition to the Union was scuppered by his insistence that the address should include a pledge of support for the Protestant Succession, which was obviously unacceptable to Jacobites. Finally, in January 1707, his leadership of a planned secession from parliament and National Address to force an election was stymied by his absence owing to toothache.<sup>1328</sup>

## Conclusion

Alignment of the Scottish succession, either by way of an Act of Settlement or incorporating union, was politically impossible in 1703-1705. This put the Court group under enormous pressure because it threatened its core Scottish objectives over policy alignment, the succession, and defence of the prerogative. It also exposed it to English Whig political pressure and the damaging accusation that it was not committed to the Protestant Succession.

Paradoxically, this pressure offered a solution to the problems it posed. It established a powerful 'tye' over the English parliament, such as that which the Court group had sought to create in 1702-1703. It also had a similar effect in Scotland. The failure to settle the succession enabled the Court group to bring the divided Revolution Interest into a fragile and short-lived alliance in support of its union policy in defence of the Protestant Succession, the Revolution, and the presbyterian church

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<sup>1326</sup> *HMC Mar & Kellie*, Mar to Nairne, 5 and 15 November 1706, pp. 312-313 and p. 321.

<sup>1327</sup> NRS, GD 18/6080, Clerk's marginal note, p. 252.

<sup>1328</sup> Bowie, *Scottish Public Opinion*, pp. 148-149; Macinnes, *Union & Empire* p. 306; Riley, *Union*, p. 286; Szechi, 'Playing with Fire', pp. 78-79. Scott, *Andrew Fletcher*, pp. 198-199, pp. 201-202 and p. 206.



settlement: the offer of trading concessions alone had not been sufficient. Tactically, the Court group fostered this alliance by encouraging the New Party to retain its separate identity, preserving Old Party unity by assiduous exploitation of its powers of patronage, and compromising Hamilton's leadership of the opposition to union.

The Court group did not intentionally create these conditions. Indeed, its initial delegation of Scottish policy to Nottingham and the Tories led to the election of a substantial Cavalier group which formed the core of opposition to both its union and succession initiatives.<sup>1329</sup> Nor did the Court group foster Queensberry's interest, which consistently sought a trade deal and together with the Cavaliers, made a Scottish Act of Settlement impossible in 1704-1705. These conditions were rather a product of Scottish domestic politics, created by the 'opportunity' afforded by the open succession to reform the Regal Union, and the absence of consensus as to how to exploit it. They did not drive union policy, but they were substantially responsible for enabling its ultimate realization.

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<sup>1329</sup> Of some 98 voting opponents of Union, the radicals numbered only 15: Macinnes, *Union & Empire*, p. 305.

## Conclusion

This study concludes that the Union was the outcome of deliberate Court group policy which emerged in 1699-1700 in response to the geopolitical and domestic issues precipitated by the Darien affair. It therefore challenges narratives which explain the Union in terms of an extemporized, English, parliamentary response to a crisis precipitated by Scottish pressure for reform of the Regal Union or undermining of England's trading system and customs revenues.

These narratives rely on four fundamental premises. The first is that the Union of the Crowns as 'mere' personal union lacked coherence. This fails to give due weight to the personal nature of political power at the end of the 17<sup>th</sup> century and the deeply monarchical assumptions that continued to underpin mainstream contemporary political attitudes in post-Revolution Britain.<sup>1330</sup> Common subjection to the person of the monarch was a unifying principle, independent of the idea of 'Britain' in its various manifestations. Indeed, the Union itself involved the creation of a new *kingdom* and revolved around the question of *monarchical* succession.

The Regal Union was typical of late 17<sup>th</sup> century European polities in the survival of multiple representative institutions and the pre-eminence of one of its component parts. The absence of economic, legal, confessional and legislative integration within it was altogether consistent with the organization of contemporary polities with which it was in geopolitical and economic competition. Chapter 2 showed that the Stuart monarchs' styling of themselves as rulers of 'Great Britain' was no mere royal brag: the Regal Union's geopolitical coherence was demonstrated by its success in resisting Louis XIV. Within it, Scotland possessed at most only a very limited 'independency' so that its resources were successfully exploited for the purposes of these wars, as were those of England on an altogether larger scale. This assessment of Scotland's nominal independency is consistent with

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<sup>1330</sup> E. Cruickshanks, 'Religion and Royal Succession—the Rage of Party' in *Britain in the First Age of Party*, p. 39.

Scottish Country polemic from 1699 onwards, save that in this polemic, common control was characterized as 'English' control.<sup>1331</sup>

This conflation of 'the Court' with 'England' is the second premise. It imposes a limiting framework of bilateral Anglo-Scottish conflict on any inquiry into the Union's origins. Chapter 2 argued that the monarchical institutions which gave substance to the Regal Union survived the Revolution so that government remained in a real sense the *monarch's* government. The monarch and their closest advisers comprised a supra-regnal Court group which gave political direction to the whole Regal Union and whose outlook embraced each kingdom, albeit from what Macinnes describes as a 'Britannic' perspective,<sup>1332</sup> notwithstanding its largely English composition. Although this group was physically located in England, this was because England was where the monarch chose to live.

Conflation of 'the Court' with 'England' was common amongst contemporaries as well with as historians. It certainly suited Scottish Country polemicists, for whom William was a 'prisoner' of the English parliament: it was therefore 'English influence' rather than William's geopolitical strategy which was responsible for Scotland's grievances.<sup>1333</sup> This conflation is entirely understandable, given the confusion over royal titles, the domination by England of the Regal Union, and the flexible usage of the term 'Court'. Furthermore, the Court group was almost completely dependent on the English parliament for the funding of its geopolitical ambitions. Consequently, when after the Revolution the Court group began to pursue an active foreign policy, the English parliament and English ministries inevitably began to encroach on the relationship between the Scots and their King. As discussed in Chapter 2, this political reality was implicit in the Restoration Settlement, but was made explicit by the post-Revolution wars.<sup>1334</sup> Nevertheless, Court group policy was not driven by the English parliament, or by interests represented in it, provided that parliament could be managed effectively.

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<sup>1331</sup> Above, pp. 81-94.

<sup>1332</sup> Macinnes, *Union & Empire*, p. 54 and p. 65.

<sup>1333</sup> For example, [Ridpath], *Enquiry*, p. 34 and *Grievances*, pp. 18-19.

<sup>1334</sup> Above, pp. 60-61, pp. 73-75 and p. 93.

These observations lead naturally to consideration of the third premise. This is that after the Revolution, and particularly during Anne's reign, the pursuit of stable policy was virtually impossible owing to the 'rage of party'. This is based on a narrative of the decline of the Court as an institution, the increasing importance of the English parliament, the emergence of one-party, Cabinet government and the domination of parliamentary politics by party conflict. Its epitome is Riley's narrative where events are almost entirely driven by the Junto's ability to exploit Court group weakness in the English parliament. If the Court group were so feeble in the face of English political competition, it is easy to see why Riley and others following him trace the origins of the Union in parliamentary manoeuvres involving the High Tories and Junto, since what the Court group wanted was largely irrelevant. Indeed, Riley acknowledges on several occasions that the Court group wanted union, but treats this as mere aspiration in the face of unfavourable political reality.<sup>1335</sup>

However, far from being driven by the 'merciless men of both parties', Chapters 4 and 5 showed that in 1702-1708 the Court group was remarkably successful in maintaining its independence from the English parliament and English politicians. In fact, in striking contrast to William's reign, it was able to pursue stable policy, notwithstanding changes in ministerial personnel and continuing party conflict. The historiographical focus on the 'rage of party' in Anne's reign has obscured the extent to which Court group policy up to 1708 was remarkably resilient in the face of party conflict. Indeed, much of the evidence for the impact (as opposed to the existence) of party conflict derives from the period after 1710, when issues of principle (such as the peace and the succession) acquired a new immediacy. This is not to argue that assiduous management of the English parliament was unnecessary, but it is to insist that in England between 1702 and 1708 the Court group was remarkably successful in doing so.

This success was founded on its unity of purpose, which depended crucially on the relationship between the Queen and her closest advisers, the Triumvirate of Marlborough, Godolphin and

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<sup>1335</sup> For example, *Union*, p. 72, p. 121, p. 142, p. 144 and p. 162.

Harley. In the period 1702-1708, the Queen and the Triumvirate shared common objectives which included an antipathy to 'party' government and a determination to prioritize the war with France. They were able regularly to secure finance for this war without compromising its conduct, to win unprecedented victories, to take practical measures to secure the Protestant Succession<sup>1336</sup> and to maintain religious toleration by defeating three attempts to legislate against occasional conformity. They were also able to realize Anne's ambition of a 'nearer and more compleat union' of England and Scotland.

Once released from the limitations imposed by these three premises, it is possible to answer two of the connected questions posed in Chapter 1.<sup>1337</sup> Firstly, the Union was a significant *modification* of an existing union, the Union of the Crowns, which despite legislative, economic, confessional, administrative and legal divisions, already possessed significant geopolitical substance. It met core Court group Scottish objectives<sup>1338</sup> while satisfying Scottish calls for reform of the trading relationship with England and gave Scotland (albeit limited) representation in the British legislature. It did not mark the end of Scottish sovereignty because, to the extent that this existed separately from the person of the Queen, it had already been substantially lost.<sup>1339</sup> However, reflecting the Court group's limited requirements for policy alignment, confessional, legal and administrative divisions within the Regal Union not only persisted after the Union, but were actually entrenched. Secondly, Union was the Court group's achievement. It was not a parliamentary Whig-led by-product of Court group weakness and the 'rage of party'.<sup>1340</sup> Accordingly, the most fundamental question about the origins of the Union is not 'why did "England" want or agree to the Union?' but rather, 'why did the Court group want to replace the Regal Union with the Union?' This should be

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<sup>1336</sup> Regency Act, 4 & 5 Anne, c. 20, re-enacted for Great Britain in 1708 as the Succession to the Crown Act.

<sup>1337</sup> Above, p. 34.

<sup>1338</sup> Above, pp. 185-187.

<sup>1339</sup> Above, pp. 93-94 and pp. 112-113.

<sup>1340</sup> Above, pp. 166-167.

distinguished from the *separate* question, which has dominated Union scholarship, of *how* the Court group procured parliamentary ratification of its union policy in both kingdoms.

The answer to this 'why' question depends in turn on the answer to the third of the connected questions posed in Chapter 1: *when* did the Court group decide to pursue union? This requires a reassessment of the final premise underlying traditional Union historiography. This is that the origins of the Union lie in an Anglo-Scottish crisis following the failure of the Scottish succession initiative and assent to the Act of Security in 1704. This premise relies on dismissing the 1702-1703 union initiative as still-born and treating the succession initiative as incompatible with a commitment to union, so that there was no continuity of policy.

Chapter 7 showed that traditional historiographical representations of the 1703-1702 negotiations have little substance. Alleged 'English indifference' can be substantially explained by the competing commitments of the English commissioners. Agreement was reached over the basic terms of union, whereby Scotland conceded the Protestant Succession and incorporation in return for England conceding a full communication of trade. The decision to adjourn was genuinely triggered by time constraints and compelling domestic and military commitments, and not by 'deadlock' over the Africa Company. The main area of dispute was neither the Plantations trade nor the Africa Company, but the common excise. The project was terminated neither by the English parliament nor the Court group but by a coalition of Country, Cavalier and Presbyterian interests in the Scottish parliament after the refusal of royal assent for the Act of Security.<sup>1341</sup>

However, this *bouleversement* did not cause the Court group to abandon its union policy. Rather, in 1704-1705, union was decoupled from alignment of the succession, allowing the prioritization of a Scottish Act of Settlement. This succession initiative was, however, carefully structured to allow and

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<sup>1341</sup> Above, pp. 224-225.

encourage a *subsequent* union. Succession and union were not, therefore, mutually exclusive for the Court group, which continued covertly to explore support for union.<sup>1342</sup>

If there were no break in union policy in 1703-1705, then it follows that this policy could *not* have been an extemporized response to the events of 1704. Indeed, Riley recognized that Court group union policy dated from 1699. Chapter 6, however, rejected his cynical argument that Court groups were motivated by calculations of parliamentary advantage.<sup>1343</sup> Instead, it concluded that the origins of union policy lay in the geopolitical and domestic impact of the Darien episode.<sup>1344</sup> It argued that Court group participation in great power geopolitics following the Revolution increased the need for policy alignment within the Regal Union, and that Darien exposed a significant shortfall in this respect. It undermined Court group diplomacy and threatened powerful English commercial interests whose support was necessary for funding its geopolitical ambitions. It also risked dragging England into a war in defence of Scottish interests which Scotland completely lacked the resources to defend.<sup>1345</sup> Further, the Court group's loss of control over the Scottish parliament as a direct result of the Darien affair threatened its fundamental Scottish objectives, particularly the preservation of prerogative rights and the alignment of the Scottish and English successions. The need separately to persuade the Scottish parliament to settle the Scottish succession after Gloucester's death underscored the geopolitical importance of aligning the interests of the two kingdoms.

The connection between Darien and union was explicit in William's reply to the Lords' address over Darien<sup>1346</sup> and repeated in Anne's June 1702 response<sup>1347</sup> to the Scottish parliament's 1701 address complaining over the treatment of the Africa Company. Incorporating union, and the consequent inclusion of Scotland within the English trading system, was, in short, designed to align the interests

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<sup>1342</sup> Above, pp. 227-238.

<sup>1343</sup> Above, pp. 183-184.

<sup>1344</sup> Above, pp. 187-203.

<sup>1345</sup> *LJ*, xv, 13 December 1695, p. 611.

<sup>1346</sup> *LJ*, xvi, p. 514.

<sup>1347</sup> *APS*, xi, pp. 13-14.

of the two kingdoms by removing sources of conflict between them, and so enhance the Court group's ability to participate in great power geopolitics. For example, it was no longer necessary to work with a nominally independent Scottish parliament to provide funds to garrison Scotland against potential insurrection or French invasion, and through a subordinate Scottish executive to deploy troops to deal with them. This enhancement of British geopolitical competitiveness was a consistent theme in the Queen's speeches on the benefits of union. As she told the Scottish parliament in 1706:

Union will remove... the jealousies and differences betwixt Our two Kingdoms. *It must increase your Strength, Riches and Trade*, and by this Union, the whole Island being joyned in affection, and free from all apprehensions of different Interests, will be *enabled to resist all its Enemies*, support Protestant interests every where and maintain the Liberties of Europe.<sup>1348</sup>

This explanation for the Court group's commitment to union is consistent with the behaviour of rival polities in response to the increasingly intense pressures of geopolitical conflict, for example, Felipe V's Spanish *Nueva Planta* decrees. These broadly suppressed the separate institutions of the Crown of Aragon, while extending to Aragon the right to trade with America.<sup>1349</sup>

Ireland, by contrast with Scotland, did not present the same problem of policy alignment. As an English dependency, it was subject to direct English (and then British) parliamentary legislation, confirmed by the Declaratory Act of 1719.<sup>1350</sup> Furthermore, its parliament's endorsement of the Hanoverian succession in 1703 denied it the leverage available to the Scottish parliament. Indeed, Ireland was only brought into an incorporating union with Great Britain in 1801 after gaining legislative independence in 1782, giving it the approximate status enjoyed by the Scottish parliament nearly a century earlier. There was no reason, therefore, to include Ireland in the Union.

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<sup>1348</sup> APS, xi, p. 306. Emphasis added.

<sup>1349</sup> Williams, *Ancien Regime*, pp. 122-124.

<sup>1350</sup> 'Act for the better securing the dependency of the Kingdom of Ireland on the Crown of Great Britain', 6 George I, c. 5.



There was nothing inevitable about the Union. The Court group may have been convinced of its necessity from 1700, but it could only be accomplished with parliamentary sanction in both kingdoms.<sup>1351</sup> This required the construction of coalitions in both parliaments which were inherently vulnerable to the interests of competing factions, elections and the vicissitudes of war. In England, the challenge was complicated by the existence up to 1708 of a Tory-dominated Commons and of a House of Lords with a small Whig majority. The experience of 1700 had shown that there was considerable resistance to the union project in the Commons, and it was here that the most trouble was anticipated. It was, however, the Scottish parliament which presented the most serious problem of management. Ironically, English Tory attempts to build an alternative Court group interest in Scotland compounded these difficulties by creating the conditions in which a significant Jacobite interest was elected in 1702.<sup>1352</sup>

In order to build support for union in the Scottish parliament, the Court group ought to exploit widespread Scottish interest in trade by procuring generous trading concessions from the English parliament. However, it proved necessary to abandon attempts to widen the basis of support for the regime by accommodating moderate episcopalians, and to rely entirely on the support of the 'Revolution Interest'. It was therefore obliged in addition to offering trading concessions to underwrite the Revolutionary church settlement and convince Scottish Revolutioners that the Union was the only way to exclude the return of arbitrary government and preserve the presbyterian settlement.<sup>1353</sup>

In England, support for union was won by exploiting concerns over the Protestant Succession and English security, and showing that an incorporating union was the only way to achieve these objectives peacefully. Ironically, Scottish demands for reform of the Regal Union as a condition of agreeing to the Protestant Succession facilitated this strategy. As in Scotland, it proved necessary to

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<sup>1351</sup> T.C. Smout, 'The Road to Union', in *Britain after the Glorious Revolution*, pp. 177-180.

<sup>1352</sup> Above, p. 243 and p. 246.

<sup>1353</sup> Above, p. 254 and p. 260.

rely for the delivery of this policy on the Revolution Interest, that is, the Whigs.<sup>1354</sup> Again, as in Scotland, the existing Church settlement had to be protected, although in England's case this was to reassure moderate Tories that union with presbyterian Scotland would not threaten the Church of England. For Whigs and Revolutioners, therefore, the Union emerged as the only politically feasible solution to securing the Protestant Succession. The Court group, however, was committed to union for its own sake, demonstrated by its consistent refusal to offer trade concessions in return for alignment of the succession.

The detailed terms of the Union reflect the political compromises and concessions required to build political support for the project in the two kingdoms. They should not, however, be mistaken for the drivers of union policy. In England, they addressed concern over Scottish underselling, which explains the insistence on a common excise. In Scotland, they addressed concerns over representation, the impact of the common excise on basic commodity prices, and the impact of English competition on key industries, notably coal and salt producers.<sup>1355</sup>

Above all, the outcome of the Court group's policy depended on its success in the war with France. The scale of Marlborough's victory at Blenheim in 1704 could not have been predicted in 1702-1703, but rendered the Court group, temporarily at least, unassailable in England. For Scotland, it made English conquest a realistic possibility.<sup>1356</sup> The equally significant victory at Ramillies immediately preceded the Union negotiations and can only have increased the strength of the Court group's position. Had Marlborough been defeated, it is scarcely credible that the Court group would have survived intact, still less that it would have succeeded in building parliamentary support for the Union in either kingdom.

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<sup>1354</sup> Above, pp. 163-166 and pp. 211-212.

<sup>1355</sup> Above, pp. 185-186.

<sup>1356</sup> For example, *Jerviswood*, Roxburgh to Baillie, 26 December 1704, pp. 28-29.

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